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UMBRELLA CONTRACTING AND ITS IMPACT ON SMALL BUSINESS

HEARING

BEFORE THE

COMMITTEE ON SMALL BUSINESS
UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

FIRST SESSION

ON

UMBRELLA CONTRACTING AND ITS IMPACT ON SMALL BUSINESS

APRIL 5, 1983

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HEARING DATE

April 5, 1983:

- Morning session 1

UMBRELLA CONTRACTING AND ITS IMPACT ON SMALL BUSINESS

TUESDAY, APRIL 5, 1983

U.S. SENATE,
COMMITTEE ON SMALL BUSINESS,
Washington, D.C.

The committee met, pursuant to notice, at 9:38 a.m., in room SR432, Russell Senate Office Building, Hon. Warren B. Rudman [acting chairman of the committee] presiding.

Present: Senators Rudman and Gorton.

Staff present: John G. McLean, professional staff member; Thomas Sadler, office of Senator Rudman; and Dorothy C. Olson, hearing clerk.

STATEMENT OF HON. WARREN RUDMAN, A U.S. SENATOR FROM THE STATE OF NEW HAMPSHIRE, AND ACTING CHAIRMAN, COMMITTEE ON SMALL BUSINESS

Senator RUDMAN. Good morning.

The background for the hearing this morning is the billions of dollars spent each year by the Federal Government in conducting commercial activities which might otherwise be performed by the private sector but for issues relating to national security, inertia, or actual economy. As is readily apparent, all three issues necessarily involve factual determinations, thus ensuring that the "contracting out" issue will never be solved to the total satisfaction of any of the protagonists involved.

Of particular interest to us at present is the fact that for the first time, in its proposed revision of circular A-76, OMB has specifically encouraged the consolidation of many functions under a single contract, an umbrella contract, if you will, for the avowed purpose of facilitating cost comparison studies necessary to address the economic issues of contracting out, as well as for dealing with some of the inertia which is a natural phenomenon of Government.

Although I briefly addressed the issue in writing some time ago, it was only to pose questions concerning the ultimate effect of the specific language. Since, to the best of my knowledge, there was nothing in the law to prohibit consolidated contracts prior to the proposed revision of circular A-76, we will be interested to learn from our witnesses today both the genesis of the language and the hopes, fears, successes, and/or failures that might result from it. We have not prejudged the issue, and we look forward to receiving the testimony of our witnesses today.

Before we proceed with our first witness we shall insert a statement of Senator Levin at this point in the record.

[The prepared statement of Senator Levin follows:]

STATEMENT OF HON. CARL LEVIN, A U.S. SENATOR FROM THE STATE OF MICHIGAN

Mr. Chairman, I want to compliment you for holding this hearing on the policy of umbrella contracting, and for providing this Committee an opportunity to look at the effect of this policy on small business.

Although there has been a long-standing policy that the government should use the private sector to obtain the goods and services it needs, the umbrella contract concept, which involves combining a number of discrete functions into a single larger contract, is a more recent development. And it is understandable why many small businesses are deeply concerned about this policy.

Umbrella contracting is a result of the government's efforts to improve the management of government activities and reduce costs. Over the years, federal agency contracting with the private sector for goods and services has generally provided numerous opportunities for small business. However, many federal agencies are now moving to include many smaller scale functions under one umbrella contract in an effort to reduce administrative costs and improve the management of the agency activities. The Department of Defense has been most active in using the umbrella contract concept, particularly in the area of contracting for the services to operate and maintain military bases.

In addition, OMB Circular A-76 requires federal agencies to conduct cost comparisons of the commercial activities they operate to determine the most economical means of performing the work—either in-house using government resources or by contracting with the private sector. In most instances the agencies combine a number of functions for the purpose of conducting the cost comparisons. These combinations frequently become the basis for an umbrella contract solicitation—although this is not required by A-76.

The folding of many functions into one umbrella contract increases the dollar value of the contract but decreases the likelihood that any business large or small could perform each and every one of the elements of the contract. As a result, the number of firms seeking such a contract will be fewer, and limited primarily to larger firms.

This situation raises troubling issues. Where there is competition for government contracts, and where there is vigorous small business competition, the federal government has the best opportunity to obtain the highest quality goods and services at the lowest possible cost. By effectively reducing the number of firms competing for a given contract, umbrella contracting raises questions whether the government will ultimately pay more in the long-run for the goods and services it needs because of the reduced competition.

Moreover, there appears to be a critical element missing in the government's move towards umbrella contracting. Under the A-76 process, federal agency cost studies involve only a comparison of in-house vs. private sector costs using a consolidation of functions that can be performed only by larger service firms. However, the A-76 process provides no basis for comparison to determine whether smaller businesses can perform these functions in a more cost-efficient manner than contracting with one larger firm.

One argument made by proponents of umbrella contracting, and an issue of great importance to this Committee, is that umbrella contracts do not result in lost opportunities for small business because of the provisions of Public Law 95-507, which require large prime contractors to negotiate a plan with the procuring agency that provides maximum subcontracting opportunities for small business concerns.

Before we accept such a claim, I think it would be appropriate to ask SBA whether the subcontracting requirements of Public Law 95-507 really do ensure opportunities for small business. The entire area of subcontracting and small business is an important area that I hope this Committee will investigate in greater detail in the very near future.

Again, Mr. Chairman, I want to compliment you. This hearing can serve as an important beginning for further investigation by this Committee, particularly into the areas of small business subcontracting opportunities and the cost effectiveness of umbrella contracts vs. using a larger number of smaller contracts.

Thank you.

Senator **RUDMAN**. Mr. Sowle, why don't you proceed?

STATEMENT OF HON. DONALD E. SOWLE, ADMINISTRATOR, OFFICE OF FEDERAL PROCUREMENT POLICY, OFFICE OF MANAGEMENT AND BUDGET, WASHINGTON, D.C., ACCOMPANIED BY LEROY J. HAUGH, ASSOCIATE ADMINISTRATOR, OFFICE OF FEDERAL PROCUREMENT POLICY; AND CURT HOLLAND, DEPUTY ASSOCIATE ADMINISTRATOR FOR POLICY DEVELOPMENT

Mr. SOWLE. Mr. Chairman, I have with me this morning Mr. Roy Haugh, on my left, who is the Associate Administrator for Policy Development in the Office of Federal Procurement Policy, and on my right is Curt Holland, who is the project manager for the A-76 program.

I do appreciate this opportunity to discuss the administration's proposed revision to OMB circular A-76 and its impact on small and small disadvantaged businesses. Specifically, my prepared statement will focus on the nature of the A-76 program, the scope of consolidated contracts, and proposed language on consolidations. I would also like to refer to testimony pertaining to two case histories of consolidated contracts this morning.

As you know, Mr. Chairman, this program has been in effect since 1955. Its main objective is to find the most economical and effective way for the Government to obtain a needed commercial product and services, either by in-house performance with Government employees or by contracting with private industry.

The heart of the A-76 process is the analysis of cost performance by contract compared to the cost of performance by Government employees.

There is a potential savings from A-76 implementation if we can put it into effect and make it function the way that we have programed. There is $6 billion of commercial activities eligible for cost studies, about $4 billion of which are operated by the Defense Department, with the remaining $2 billion operated by civilian agencies.

The majority of the $6 billion has not been cost studied. Once it is, we estimate a 5-year cumulative savings of $5 billion, whether the work remains in-house or is performed by contract. Savings of over $1 billion annually would continue after fiscal year 1987.

Mr. Chairman, I am abbreviating my statement.

Senator RUDMAN. That is fine. Your entire statement will be in the record following your oral presentation.

Mr. SOWLE. Thank you, sir.

Consolidated contracts, or umbrella contracts, as we are referring to them today, are used only in instances where it proves to be in the best interest of the Government and the taxpayer.

The number of consolidated reviews is small compared to the number of single activity reviews the Defense Department has scheduled for fiscal year 1983.

Of the 556 studies scheduled, 489 are single activity reviews, 21 are small consolidations of two to four activities, and only 46, or 8 percent, are large consolidations of five or more related activities.

The Defense Department is the only agency currently using large consolidated contracts for A-76 studies, and it has only 17 consolidated contracts now, totaling approximately $214 million, or approximately 5 percent of the $4.7 billion contracted commercial activities in DOD. Of these 17 consolidated contracts, two were awarded to small businesses.

We believe that the Defense Department has developed a well-balanced approach to packaging commercial activities for A-76 cost studies. In addition, there are significant subcontracting opportunities under the umbrellatype contracts. In one Army example, slightly more than 50 percent of the contract dollars flow to subcontractors, with 60 percent of those subcontract dollars going to small or small disadvantaged businesses. A Navy example shows 33 percent of the total contract dollars subcontracted to small or small disadvantaged businesses.

Mr. Chairman, with your approval, I would like to submit for the record two prepared statements pertaining to these contracts that were presented to the Senate Armed Services Subcommittee in March of this year.

Senator RUDMAN. Without objection, they will be entered in the record.

Mr. SOWLE. Thank you, sir.

[Material follows:]

STATEMENT OF
CAPTAIN JOHN H. KINERT, U.S. NAVY
COMMANDING OFFICER
NAVAL SUBMARINE BASE, BANGOR, WASHINGTON

Good morning ladies and gentlemen. I am pleased to testify today on the subject of contracting out base support services at the Naval Submarine Base Bangor, Washington.

I am Captain John H. Kinert, United States Navy, Commanding Officer of Naval Submarine Base, Bangor, Washington. I was assigned as Commanding Officer of the base some nineteen months ago. This tour followed previous assignments ashore and afloat which have included Commanding Officer of the submarine repair ship USS L. Y. SPEAR and the Fleet Ballistic Missile submarine USS CASIMIR PULASKI as well as tours on U.S. and NATO staffs.

My statement will include a brief description on the Bangor area command structure, a discussion of the Base Operating Service Contract (BOSC) and my evaluation of that contract, a specific discussion of contracting out of firefighting and security services and my views on problems involved in contracting out.

The Naval Submarine Base, Bangor, Washington is geographically located approximately ten miles north of the city of Bremerton, Washington, and is situated on the eastern shore of the Hood Canal. SUBASE Bangor is the support (host) command for all local Trident and Trident related commands which provide specific services to the Trident strategic deterrent system. As the support command, the base maintains and operates facilities for administration, personnel support, logistics and other service tasks common to all commands. This allows supported commands to concentrate on accomplishing their individual missions without diverting management attention to the day-to-day mundane problems of base maintenance. SUBASE Bangor is the first Naval installation in the United States to be operated and maintained by a Base Operating Service Contract (BOSC).

In support of Trident operations, there are two operational staff commands and three major tenant commands, described as follows:

Commander Submarine Group NINE- The operational control authority for submarines operating in the Pacific Northwest area. Responsible for command of the off-ship crews of the Trident submarines, coordination of all submarine related matters in the Pacific Northwest, ensuring that off-ship crews are trained and evaluated as ready to assume patrol duties, and supporting dependents of both the off-ship and deployed crews.

Commander Submarine Squadron SEVENTEEN- Exercises operational command of Trident submarines during refit and sea trial periods and the Trident Refit Facility. Is responsible for ensuring that the submarines are ready to meet patrol commitments as scheduled.

Commanding Officer, Trident Refit Facility- Provides repairs and supplies for Trident submarines at Bangor. It has alongside refit berths, a drydock, and industrial support facilities for maintenance and repairs of submarine equipment at an intermediate level, that is, above the ship's capability but below shipyard capability

Commanding Officer, Strategic Weapons Facility, Pacific- Is responsible for the receipt, final assembly, storage, check-out, transportation and installation of the ballistic missiles aboard the Trident submarines. Strategic Weapons Facililty, Pacific, also maintains a residual expertise and capability to support the Polaris Ballistic Missile Program in support of contract provisions between the United States and Great Britain.

Commanding Officer, Trident Training Facility- Is responsible for providing all Trident-related training for the Navy. This includes initial training for all newly reporting Trident personnel as well as intermediate and advanced

TECHNICAL SKILL TRAINING, OFF-SHIP CREW TEAM AND REFRESHER TRAINING AND OTHER GENERAL MILITARY TRAINING.

IN ADDITION TO THESE STAFFS AND COMMANDS, THE SUBMARINE BASE, BANGOR ALSO PROVIDES SUPPORT TO THE NAVAL UNDERSEAS WARFARE ENGINEERING STATION, KEYPORT, WASHINGTON, WHICH IS RESPONSIBLE FOR THE ASSEMBLY, TESTING AND ISSUE OF TORPEDOES USED THROUGHOUT THE FLEET, AND THE NAVAL REGIONAL MEDICAL CENTER, WHICH PROVIDES MEDICAL CARE FOR NAVAL PERSONNEL IN THE BREMERTON AND BANGOR AREA.

TO TRANSLATE THE ABOVE DUTIES INTO SOME STATISTICS, THE BASE PROVIDES OPERATIONAL SUPPORT FOR OVER 2,500 BUILDINGS ENCOMPASSING 8.6 MILLION SQUARE FEET, SITUATED ON 12,400 ACRES. THE VALUE OF THE BUILDINGS, EQUIPMENT, FURNISHINGS, ETC. IS OVER ONE BILLION DOLLARS. OVER 10,000 PERSONNEL ARE SUPPORTED, NOT COUNTING DEPENDENTS.

AS CAN BE SEEN, NAVAL SUBMARINE BASE, BANGOR PROVIDES A SINGLE DEDICATED SHORE SUPPORT FACILITY FOR NEARLY ALL THE NEEDS OF THE TRIDENT STRATEGIC DETERRENT SYSTEM.

SUBMARINE BASE, BANGOR SUPPORT IS ACCOMPLISHED BY A MULTI-FACETED SERVICE CONTRACT. THIS CONTRACT IS A PERFORMANCE ORIENTED, FIXED PRICE, INCENTIVE FEE CONTRACT WITH A FY83 VALUE OF APPROXIMATELY 36 MILLION DOLLARS.
IT PROVIDES SERVICES THROUGH A CONTRACTOR WORKFORCE OF 1,200 PERSONNEL IN THE FOLLOWING FUNCTIONAL AREAS: SUPPLY SERVICES, MESS ATTENDANT SERVICES, GROUNDS MAINTENANCE, STREET SWEEPING, TRASH COLLECTION, UTILITIES MAINTENANCE, CUSTODIAL SERVICES, GUARD MAIL SERVICES, PHOTOGRAPHIC SERVICES, UNACCOMPANIED HOUSING OPERATIONS, BUILDING MAINTENANCE, FIRE PROTECTION, ENGINEERING, FAMILY HOUSING MAINTENANCE, SECURITY SERVICES, VEHICLE OPERATION AND MAINTENANCE, PEST CONTROL SERVICES, AND ASSOCIATED ADP REPORTING. IT IS A ONE YEAR CONTRACT WITH ANNUAL OPTIONS TO NEGOTIATE UP TO FOUR ADDITIONAL YEARS OF SERVICE. TO MANAGE THIS

CONTRACT AND TO PERFORM TASKS NOT COVERED BY THE CONTRACT, THERE ARE APPROXIMATELY 350 MILITARY PERSONNEL AND 395 CIVIL SERVICE PERSONNEL.

WHILE THE DUTIES AND RESPONSIBILITIES OF EACH OF THE ABOVE GROUPS ARE SEPARATE AND ARE DISTINCTLY DEFINED, THERE ARE NUMEROUS AREAS WHERE CLOSE SUPERVISION AND MANAGEMENT MUST BE MAINTAINED TO PREVENT OVERLAPPING RESPONSIBILITY OR DUPLICATION OF WORK AND TO ENHANCE COORDINATION OF EFFORT. I HAVE FOUND THAT WORKING IN CONSONANCE AS A TEAM IS ABSOLUTELY ESSENTIAL IN THE EFFICIENT AND EFFECTIVE EXECUTION OF OUR DUTIES. IN EACH OF 18 FUNCTIONAL AREAS OF THE CONTRACT I HAVE AN APPOINTED REPRESENTATIVE WHO IS CHARGED WITH ENSURING THE CONTRACT DOCUMENTS ACCURATELY REFLECT THE REQUIRED SERVICES. THIS CIVIL SERVICE EMPLOYEE, CALLED A "TECHNICAL REPRESENTATIVE OF THE COMMANDING OFFICER", OR TRCO, IS TECHNICALLY COMPETENT AND SPECIFICALLY TRAINED TO OVERSEE, MONITOR, CHANGE AND EVALUATE CONTRACT OPERATIONS FOR HIS/HER FUNCTIONAL AREA. THERE MAY BE ONE OR MORE PEOPLE ASSISTING IN THIS EFFORT.

SINCE THE SUBMARINE BASE AND ITS TENANT COMMANDS ARE NOT OPERATIONALLY STATIC, THERE ARE CONTRACT ADDITIONS, DELETIONS AND CHANGES WHICH MUST BE INCORPORATED INTO THE BASIC DOCUMENT DURING THE COURSE OF THE YEAR. CONTROL IS EXERCISED ONLY THROUGH THESE CONTRACT DOCUMENTS; IF IT IS NOT SPECIFIED IN THE CONTRACT DOCUMENT, IT WON'T HAPPEN. IF THE DOCUMENTS ARE NOT PRECISE, THEN THE RESULTS WILL BE EQUALLY UNPRECISE AND NOT UP TO EXPECTATIONS.

FROM A MANAGER'S POINT OF VIEW, CONTROL IS MANIFESTED IN MY ABILITY TO PRESENT A PROBLEM TO THE CONTRACTOR MANAGEMENT AND HAVE THE CONTRACTOR ORCHESTRATE THE INTERFACES BETWEEN AFFECTED AREAS TO ENSURE AN EFFECTIVE SOLUTION. WITH AN UMBRELLA CONTRACT INSTEAD OF A NUMBER OF SEPARATE SMALL CONTRACTS THERE IS NO NEED TO CONSTANTLY CONTACT DIFFERENT CONTRACTORS AND THEN REFEREE

DIFFERENCES BETWEEN THEM AS TO WHO IS AT FAULT. THE MANAGEMENT OF THE UMBRELLA CONTRACT SOLVES THAT PROBLEM.

WHILE IT IS ESSENTIAL TO HAVE CONTROL TO PROPERLY MANAGE THE BASE, IT IS ALSO IMPERATIVE THAT THE ORGANIZATION (MILITARY - CIVILIAN - CONTRACTOR) BE RESPONSIVE TO THE OPERATIONAL ASPECTS OF THE MISSION. THE CONTRACTOR HAS CONSISTENTLY DEMONSTRATED RAPID RESPONSE TO GOVERNMENT INSTITUTED CHANGES AND EMERGENCY CONDITIONS. THE 24-HOUR A DAY CONTRACTOR OPERATED TROUBLE DESK REACTS TO ALL EMERGENCIES, RECALLING MANAGEMENT AND TECHNICAL PERSONNEL AS NEEDED AND WHEN REQUIRED.

CHANGES IN WORK FORCE COMPOSITION TO MEET NEW REQUIREMENTS HAVE BEEN ACCOMPLISHED SMOOTHLY AND WITH QUALIFIED PERSONNEL. I HAVE THE FLEXIBILITY TO INTEGRATE THE EFFORTS OF ALL CONTRACTOR AND BASE PERSONNEL TO EFFECTIVELY CARRY OUT THE MISSION OF SUPPORT TO THE TRIDENT SYSTEM. THIS HAS BEEN PROVEN BY THE INITIAL OPERATIONAL LOADOUT AND DEPLOYMENT OF USS OHIO, THE FIRST TRIDENT SUBMARINE ON ITS FIRST TWO STRATEGIC DETERRENT PATROLS.

I HAVE INCLUDED THE CONTRACTOR IN DAY-TO-DAY DISCUSSIONS OF BASE OPERATIONS. THIS HAS PPOVEN VERY USEFUL IN CARRYING OUT THE CONTRACT AND HAS RESULTED IN THE SHARED PHILOSOPHY OF A SINGULAR MISSION.

IN SUMMARY, I CAN STATE THAT I AM TOTALLY SUPPORTIVE OF THE "UMBRELLA" CONCEPT OF PROVIDING BASE OPERATING SERVICES. I AM EXTREMELY PLEASED WITH THE CONTRACTOR'S RESPONSE TO MY DIRECTION. I HAVE THE NECESSARY FLEXIBILITY TO ENSURE THAT APPROPRIATE COMMAND AND CONTROL REQUIREMENTS ARE EXECUTED. I AM SATISFIED WITH THE SERVICES THAT ARE PROVIDED IN ACCORDANCE WITH THE CONTRACT. WHERE PROBLEMS HAVE BEEN IDENTIFIED, PROPER CORRECTIVE ACTION HAS BEEN PROMPTLY TAKEN.

Two specific areas of committee interest conveyed to me were contracting of fire fighting and security services. My thoughts and experiences in these areas are as follows:

Fire fighting services have been contracted out at Bangor since July 1976, when the BOSC was initially awarded. The contractor provides a 54 man fire department operating from three fire stations 24 hours a day. The contractor is tasked to provide fire suppression services for the entire SUBASE complex and outlying Navy housing, medical, and weapons firing range areas. This includes planning, development and maintenance of contingency plans for fire suppression operations covering all major hazards, including hazardous substances, radiological materials, and structural fires. All fire fighting personnel are required to meet Navy fire protection standards for training and qualifications.

I am very pleased with the performance of the fire fighting service contract. The fire department has consistently met and usually exceeded all Navy fire protection standards and training requirements. During the last annual inspection of our fire suppression and prevention services in November 1982, by the Western Division Fire Marshal of the Naval Facilities Engineering Command, the department was evaluated as exceptionally good in all areas of the inspection (fire suppression capability, fire prevention program, and fire department administration). In every nuclear weapons inspection or naval radiological controls evaluation conducted at SUBASE Bangor, the fire department's performance has been satisfactory. Other measures of effectiveness include recognition in the Allen G. Ogden Competitive Program for "Recognition of your effort toward the Improvement and Advancement of Fire Prevention and Fire Protection", Certificates of Appreciation and/or Achievement from The

FEDERAL EMERGENCY MANAGEMENT AGENCY, THE NATIONAL FIRE ACADEMY, AND THE CENTRAL KITSAP SCHOOL DISTRICT COOPERATIVE EDUCATION PROGRAM- TO NAME A FEW.

THERE ADDITIONALLY IS A CONTINUOUS EVALUATION OF FIRE DEPARTMENT PERFORMANCE THROUGH TECHNICAL REPRESENTATIVE QUALITY ASSURANCE INSPECTIONS AND AUDITS, AS WELL AS THE OBSERVED PERFORMANCE OF THE DEPARTMENT DURING BASE-WIDE DRILLS AND TRAINING EVOLUTIONS. FINALLY, THE ACTUAL PERFORMANCE OF THE DEPARTMENT DURING ACTUAL FIRE EMERGENCIES HAS INDICATED THEIR SUPERB PROFESSIONALISM AND COMPETENCE.

IN MY JUDGMENT, SECURITY IS ONE OF MY MOST IMPORTANT RESPONSIBILITIES AS COMMANDING OFFICER. SUBMARINE BASE BANGOR (SUBASE) IS A VERY LARGE FACILITY, WITH OVER FIVE MILES OF WATERFRONT PROPERTY AND OVER 22 MILES OF PERIMETER FENCE LINE. SINCE 1974, THERE HAS BEEN A HISTORY OF ANTI-TRIDENT DEMONSTRATIONS WITH CIVIL DISOBEDIENCE ON OR NEAR THE BASE. WHILE NONE OF THE TRESPASSERS AT BANGOR HAS CAUSED DAMAGE TO OPERATIONAL EQUIPMENT, THE POSSIBILITY FOR SUCH ACTION HAS EXISTED, DOES EXIST NOW, AND WILL EXIST IN THE FUTURE.

SECURITY SERVICES ARE PROVIDED BY THE BASE OPERATING SERVICES CONTRACT CONTRACTOR. HE IS RESPONSIBLE FOR SECURITY 24 HOURS A DAY, EVERY DAY OF THE YEAR. HIS DUTIES INCLUDE PHYSICAL SECURITY OF THE BASE PROPERTY AND PERIMETER, ON-BASE BUILDING/FACILITY SECURITY, VEHICLE CONTROL, TRAFFIC LAW ENFORCEMENT, PROTECTION OF GOVERNMENT AND PERSONAL PROPERTY, RANDOM VEHICLE INSPECTIONS TO ENHANCE PROTECTION OF GOVERNMENT PROPERTY AND PROTECTION OF CRITICAL ON-BASE OPERATIONS. HE OPERATES THE WATERBORNE SECURITY PATROL BOATS WITHIN THE RESTRICTED WATERS OF THE HOOD CANAL ADJACENT TO SUBASE TO ENSURE THE WATERFRONT SECURITY OF THE BASE. HE ALSO OPERATES THE BASE-WIDE SECURITY BADGE SYSTEM AS WELL AS ISSUE AND CONTROL OF THE VEHICLE DECALS/PASSES.

I AM HIGHLY PLEASED WITH THE PERFORMANCE BY THE CONTRACTOR SECURITY FORCE. BY EVERY MEASURE OF EVALUATION, THEY HAVE EXCELLED.

THEY ARE YOUNG, PHYSICALLY FIT, AND HIGHLY MOTIVATED WITH A CONTRACTOR OPERATED CERTIFICATION/RECERTIFICATION PROGRAM THAT KEEPS EACH MEMBER QUALIFIED AND CURRENT IN STATE OF THE ART LAW ENFORCEMENT TECHNIQUES. THEIR PROFESSIONALISM AND QUALITY OF LAW ENFORCEMENT HAS BEEN READILY APPARENT BY THE PROSECUTION SUCCESS RATE IN FEDERAL COURT. THE U.S. ATTORNEY'S OFFICE FOR WESTERN WASHINGTON HAS FREQUENTLY COMMENTED ABOUT THE OUTSTANDING PROCEDURES AND REPORTS OF THE CONTRACT SECURITY FORCES. THE ASSISTANT U.S. ATTORNEY IN CHARGE OF CRIMINAL COMPLAINTS HAS STATED THAT BANGOR'S ATTENTION TO DETAIL IN PREPARING A CASE FOR PROSECUTION IS FAR SUPERIOR TO THAT OF OTHER MILITARY INSTALLATIONS UTILIZING GOVERNMENT CIVILIAN OR MILITARY GUARD FORCES. WHERE CASES HAVE BEEN REFERRED TO THE LOCAL COUNTY PROSECUTOR'S OFFICE IN EXERCISING THEIR CONCURRENT JURISDICTION, SIMILAR FEEDBACK ABOUT THE QUALITY OF THE SECURITY FORCE HAS BEEN RECEIVED.

THE CONTRACTOR'S SECURITY FORCE TRAINING PROGRAM, PROFESSIONALISM, AND RESPONSIVENESS, WERE KEY FACTORS IN THE DECISION OF THE LOCAL COUNTY SHERIFF TO DEPUTIZE THE BASE POLICE OFFICERS. DEPUTIZATION HAS SMOOTHED THE INTERFACE BETWEEN BASE SECURITY POLICE AND OTHER LOCAL LAW ENFORCEMENT AGENCIES.

THE CONTRACT SECURITY FORCE AND LOCAL STATE AND FEDERAL LAW ENFORCEMENT AGENCIES DEVELOPED AN EFFECTIVE, CLOSE WORKING RELATIONSHIP PROVIDING MUTUAL SUPPORT AND COOPERATION TO EACH OTHER. DURING THE PREPARATIONS FOR THE ARRIVAL OF USS OHIO TO BANGOR, THIS CLOSE COOPERATION WAS A KEY FACTOR IN ENSURING THE SHIP'S SAFE ARRIVAL AND SUBSEQUENT DEPLOYMENT. DETAILED, INVOLVED COORDINATION WAS REQUIRED WITH THE NATIONAL GUARD, WASHINGTON STATE PATROL, FBI, U.S. ATTORNEY'S OFFICE, U.S. COAST GUARD, U.S. MARSHALS, AND SEVERAL NAVY COMMANDS.

THIS MANAGEMENT TEAM PROVIDED OPERATIONAL PLANS AND PROCEDURES TO COORDINATE THE EFFORTS OF MANY AGENCIES IN COUNTERING POTENTIALLY HOSTILE REACTIONS ASSOCIATED WITH TRIDENT SUBMARINES IN THE PUGET SOUND. MUCH OF THE "HANDS-ON" TECHNICAL EXPERTISE IN METHODS AND EQUIPMENT REQUIRED TO ENSURE THE SAFETY OF GOVERNMENT PROPERTY AS WELL AS THE SAFETY OF THE DEMONSTRATORS WAS PROVIDED BY CONTRACTOR SECURITY SUPERVISORS WHO HAD CONSIDERABLE EXPERIENCE AND TRAINING IN CROWD AND RIOT CONTROL. THE SECURITY FORCE RESPONDED RAPIDLY AND EFFECTIVELY TO EVERY CHALLENGE TO THE SECURITY OF SUBMARINE BASE, BANGOR INCLUDING PROTECTION OF PROPERTY, SEARCH AND APPREHENSION OF TRESPASSERS, AND PROCESSING OF ARRESTED INDIVIDUALS.

IN SUMMARY, I AM HIGHLY PLEASED WITH THE PERFORMANCE OF THE CONTRACT SECURITY SERVICES AT BANGOR.

IT WAS ALSO INDICATED TO ME THAT THE COMMITTEE WAS INTERESTED IN MY VIEWS CONCERNING ANY EXISTING OR POTENTIAL PROBLEM AREAS I HAVE RECOGNIZED CONCERNING CONTRACTING OUT BASE SERVICES.

I BELIEVE THERE ARE SEVERAL PITFALLS IN THE CONTRACTING OUT PROCESS. HOPEFULLY, WE HAVE AVOIDED MOST OF THEM AT SUBASE BANGOR.

FIRST, THE USE OF A NUMBER OF SEPARATE CONTRACTS TO PROVIDE BASE SERVICES INSTEAD OF AN UMBRELLA OR BOS CONTRACT CAN RESULT IN A SERIOUS ADMINISTRATIVE PROBLEM FOR THE BASE COMMANDER. CONFLICTS CAN DEVELOP AS TO WHICH CONTRACTOR IS RESPONSIBLE. LACK OF COOPERATION BETWEEN CONTRACTORS CAN DEGRADE SERVICE EFFECTIVENESS, AND OVERALL ECONOMY OF MANAGEMENT MAY NOT BE REALIZED SINCE EACH CONTRACTOR REQUIRES HIS OWN MANAGEMENT. IN AN UMBRELLA OR BOS CONTRACT THESE PROBLEMS WILL NOT ARISE AND, IN ADDITION, THERE ARE SEVERAL RESULTANT BENEFITS WHICH PROMOTE INCREASED EFFICIENCY: THE BOSC MANAGEMENT CAN RAPIDLY SHIFT MANNING ASSETS TO HIGHER PRIORITY SERVICE TASKING TO BETTER MEET THE BASE OPERA-

TIONAL COMMITMENTS. SMALL BUSINESS SUBCONTRACTORS CAN BE REQUIRED TO BE INCLUDED IN THE BOSC WITH THE CONTRACTOR PROVIDING MANAGEMENT EXPERTISE, FINANCIAL BACKING AND OTHER ASSISTANCE TO ALLOW THE SUBCONTRACTORS TO MEET HIS RESPONSIBILITIES. AT BANGOR THIS HAS WORKED TO EVERYONE'S BENEFIT, WITH OVER 6 MILLION DOLLARS OR 17% OF THE CONTRACT SUBCONTRACTED TO SMALL OR SMALL DISADVANTAGED/MINORITY CONTRACTORS.

ANOTHER AREA OF POTENTIAL PROBLEMS WITH A SERVICE CONTRACT IS IN THE AREA OF CONTRACT SPECIFICATIONS. IF THE CONTRACT IS POORLY WRITTEN OR INCOMPLETE, THE SERVICES PROVIDED MAY WELL BE MARGINAL OR UNSATISFACTORY.

THE TECHNICAL REPRESENTATIVES WHO MONITOR, CHANGE AND EVALUATE THEIR PARTICULAR AREA OF THE CONTRACT ARE CRUCIAL TOWARD DETERMINING THE QUALITY OF THE SERVICE PROVIDED. IF THEY ARE NOT OBJECTIVE, ADEQUATELY TRAINED, AND PERSONALLY RESPONSIBLE, THE SERVICES PROVIDED BY THE CONTRACTOR MAY NOT BE RESPONSIVE, ADEQUATE, OR ADJUSTABLE TO CHANGING NEEDS.

ANOTHER AREA FOR POTENTIAL PROBLEMS IN CONTRACTING SERVICES CONCERNS A STRIKE AGAINST THE CONTRACTOR OR CONTRACTORS. WITH PRESENT CIVIL SERVICE AND MILITARY MANNING OF SUBASE BANGOR, ONLY THE MOST CRITICAL SERVICES COULD BE CONTINUED IN THE EVENT OF A STRIKE. ALTHOUGH CONTINGENCY PLANS HAVE BEEN DEVELOPED TO PROVIDE TEMPORARY CRITICAL SERVICES, AUGMENTATION OF BASE PERSONNEL WOULD BE REQUIRED IF THE STRIKE WERE TO CONTINUE FOR ANY EXTENDED PERIOD OF TIME.

FINALLY, DURING RENEGOTIATION OF THE CONTRACT, ONE MUST BE ALLOWED TO EVALUATE THE EFFECTIVENESS OF THE BID PROPOSALS VERSUS THE COST. IT IS NOT ENOUGH TO MERELY AWARD TO THE LOW BIDDER, BUT COST AND OTHER CONSIDERATIONS SHOULD BE PART OF THE AWARD PROCESS. THE QUALITY OF THE SERVICE IS PARAMOUNT AND THE GOVERNMENT MUST BE ALLOWED TO EVALUATE THE BID PROPOSALS TO DETERMINE IF THE SERVICE DESCRIBED IS RESPONSIVE TO THE GOVERNMENT NEED.

There has been a growth in total contract costs during the five year period of the initial contract. From an initial cost of $14 million in FY78, we experienced growths of 50%, 40%, 15%, and 12% in the following 4 years ending in a FY82 cost of $37 million. The reasons for this rapid growth were: new facilities coming on line (180% increase to square footage maintained), unprecedented inflation (averaging over 8%), and a large increase to the number of tenant commands and other activities supported (from about 20 in FY78 to 60 in FY82).

While the cost growth discussed above is significant, the contracting effort remains cost effective. A detailed feasibility study (cost comparison) was conducted in FY81 to determine if contracting out was still more cost effective. This study resulted in the determination that the FY81 contract was 10%, or $3.8 million below the government (in-house) estimate.

The contractor's performance to date has been superb, in my judgment. The contractor's management team, drawn from diverse backgrounds with a technical base that comes from experience in private industry, the military, and other government agencies has for the past five years, managed effectively, been responsive, and been innovative to ensure that SUBASE complex can accomplish its mission. The first Navy umbrella contract has met the test of success and it has done so in support of possibly the United States most important weapon system, our Trident strategic deterrent force. It has not just "cut the grass and washed the dishes." It has provided professional services of an extremely varied nature which enabled the Submarine Base Bangor to maintain a high state of readiness and an ability to carry out its assigned mission.

I hope that my views and experiences related above provide the information you desired. I would be happy to expand or further explain any of my coments above, or attempt to answer any questions you may have.

STATEMENT BY

LIEUTENANT COLONEL JOHN C. BUSH

FORT GORDON, GEORGIA

Good Morning Mr Chairman.

(I am Lieutenant Colonel John Bush and the Contract Administration Officer for the Fort Gordon support services contract. I am pleased to appear before you on the behalf of the Department of the Army.) Today I will present to you the Army's experience with contract performance under the Office of Management and Budget Circular A-76, "Commercial Activities," at Fort Gordon, Georgia.

Today I will address four specific areas:

— A general overview of the contract and how it operates

— The effect of the contract on readiness

— Small business participation

-- Cost control and administration

The type contract selected for Fort Gordon is a cost plus award fee type contract which covers a variety of functions under a single contract or "umbrella". Charts one through three show the general scope of operations covered at Fort Gordon, missions contracted and characteristics of the cost plus award fee contract. There are two critical elements which must be understood.

First under this particular cost plus award fee contract, the only profit available to the contractor is through award fee. The amount of fee is a unilateral subjective determination by the Government with a maximum limit of 2.44% of the estimated contract cost.

This type contract provides quality performance, cost control and flexibility to meet changing requirements. The missions contracted as a package at Fort Gordon directly affect readiness; therefore, performance and flexibility are critical. However, excellent cost control can also be achieved with this type contract.

The effectiveness of this system is best illustrated by performance achieved.

In the area of readiness, over 24 major exercises have been conducted since initiation of the contract. Exercises ranged from providing support to the 82d Airborne Division Signal Battalion to actual deployment of FORSCOM units stationed at Fort Gordon. The contractor has participated in all types of exercises, many of which involved support at field locations air loading and field maintenance support. Favorable comments were made by staff members of the XVIII Airborne Corps and the commander of 82d Airborne Division. Commanders of all levels at Fort Gordon have expressed satisfaction with contractor support.

Unit readiness levels in areas impacted by the contract have shown an overall sustained increase of five points. Many factors outside the scope of the contract can enter into these figures and the increase may not be entirely due to the contract. However, clearly no harm was done.

A critical factor in achieving readiness is the coordinated effort of all activities toward a single goal. The functions of supply maintenance and transportation are interdependent and must function together to achieve the readiness goal. Army experience in the field has shown these functions must be under a single manager and it is reflected in current Army organizations and doctrine.

The employment of an umbrella contract provided unified responsibility and authority within the contracted area.

When we initially announced that we were going to proceed with an umbrella contract, there was great concern that small business would be deprived of this market. Through incentives within the contract, the small business community is well represented.

Chart four provides a breakdown of small business participation since the beginning of the contract. In terms of actual expenditures, slightly over half of the cost goes to subcontractors. Over 60% of all subcontract dollars go to small or small and disadvantaged businesses. Small business participation has increased 265% at Fort Gordon under this contract during the first year.

The contracting officer incorporated special incentives in the contract to ensure small businesses would have a substantial share in the business. Experience shows these incentives work very well. The advantage to the Army in this contract is unified responsibility and authority in the contracted area. High performance levels are achieved and the Army is not burdened with coordinating the efforts of various subcontractors. In fact, it is doubtful the Government could exercise the control the prime contractor achieves.

The most effective operation in the world is useless if it is too costly. Charts five through seven summarize cost history to date. Key points are as follows: The annual savings rate exceeds the original estimate by approximately $2 million. (Initial projections 6.3 million.) (Current projections 8.7 million.)

Each year has resulted in an underrun of the estimated cost.

Cost growth due to inflation has been held below the national inflation rate. First year increases appear higher because base data was two years old and first "year" was actually one month due to appeals and other delays.

The contractor has not requested or been granted any increase in estimated cost for specified work.

The Government contract administration cost has gone down from 3.8% during the first year of operation to 3.6% currently. The residual staff represents approximately 3% of the contracted work force.

We believe this type contract is a significant factor in achieving cost control. Approximately 40% of the award fee is devoted to factors which control costs. The contractor must demonstrate efficient cost control to achieve this fee. The contractor is in a position where his best interests are to vigorously pursue the Government's best interest. The results to date verify that this procedure is effective.

Gentlemen, this concludes my statement.

CHART 1

THE FORT GORDON SUPPORT MISSION

- SIZE - 86.74 SQUARE MILES
- STUDENT POPULATION - MINIMUM MONTHLY - 9,000
  MAXIMUM MONTHLY - 12,000
- MILITARY POPULATION AVERAGE - 18,000
- NUMBER OF COURSES - 90 - 100
- MEALS SERVED ANNUALLY - 5 - 6 MILLION
- FOOD HANDLED BY TISA - $8.5 - 9 MILLION
- REQUISITIONS PROCESSED ANNUALLY - 214,000
- HOUSING UNITS - BACHELOR 852 FAMILY 877
- BILLETING AND QUARTERS TRANSACTIONS - 10,000
- PERSONNEL MOVED - 54,000
- PIECES OF LAUNDRY PROCESSED - 4 MILLION

*FIGURES ARE REPRESENTATIVE OF SEVERAL YEARS OF OPERATIONS

CHART 2

MISSIONS CONTRACTED

MAINTENANCE

- VEHICLES
- ELECTRONICS
- WEAPONS
- OFFICE EQUIPMENT
- FAMILY QUARTERS
- COMMUNICATIONS SECURITY EQUIPMENT

SUPPLY

- FOOD
- FUEL
- CLOTHING
- EQUIPMENT
- REPAIR PARTS
- OVERALL MANAGEMENT
- AMMUNITION
- GENERAL SUPPLIES EXCEPT MEDICAL

TRANSPORTATION

- MOTOR POOL
- HOUSEHOLD GOODS
- TROOPS MOVEMENT
- TRAVEL
- GENERAL CARGO TRANSPORTATION AND MANAGEMENT

SERVICES

- HOUSING
- LAUNDRY
- FOOD SERVICE
- BACHELOR QUARTERS
- CLOTHING SALES

CHART 3

CONTRACT CHARACTERISTICS

CONTRACT TYPE	COST PLUS AWARD FEE
FEE	AWARD MAXIMUM 2.44% OF ESTIMATED COST BASED ON A UNILATERAL DETERMINATION BY THE GOVERNMENT NOT SUBJECT TO THE DISPUTES CLAUSE
PROPERTY	ALL PROPERTY AND MATERIALS REQUIRED ARE FURNISHED BY THE GOVERNMENT

CHART 4

SMALL BUSINESS

	FY80			FY81			FY 82			FY 83		
	Goal	Actual		Goal	Actual		Goal	Actual		Goal	Actual	
SMALL BUSINESS	6.9%	9.7%	$167,422	9.0%	9.3%	$1,064,144	6.0%	15.4%	$1,981,335	6.7%	-	$ 897,676
SMALL DISADVANTAGED BUSINESS	61.0%	64.5%	$529,984	60.0%	63.0%	$7,966,767	60.0%	52.0%	$6,673,338	57.4%	-	$7,690,536
TOTAL SMALL AND DISADVANTAGED BUSINESSES	67.9%	74.2%	$697,406	69.0%	71.0%	$9,030,911	66.0%	67.4%	$8,654,673	64.1%	-	$8,588,212
ESTIMATED TOTAL SUBCONTRACTS & PURCHASES			$807,934			$12,735,142			$12,849,773			$13,398,146

CHART 5

SUMMARY OF FY 81 ESCALATION

FY 79 BID ANALYIS TO 12 MONTHS	$17,817,573
FY 81 COST PROPOSAL	$21,576,459
OVERALL INCREASE	$ 3,758,886

ANALYSIS OF INCREASE:

NON-NEGOTIABLE	$ 3,689,756
NEGOTIABLE	$ 69,030
TOTAL	$ 3,758,786

CHART 6

SUMMARY OF FY 82 ESCALATION

FY 81 ESTIMATED COST	$21,576,459
FY 81 NEGOTIATED INCREASES	$ 1,128,177
REVISED BY 81 ESTIMATED COST	$22,704,636
FY 82 ESTIMATED COST	$24,508,038
OVERALL INCREASE	$ 1,803,402

ANALYSIS OF INCREASE:

NON-NEGOTIABLE	$ 1,060,720
NEGOTIABLE	$ 742,682
TOTAL	$ 1,803,402

CHART 7

SUMMARY OF FY 83 ESCALATION

FY 82 ESTIMATED COST	$24,508,038
FY 82 NEGOTIATED DECREASES	$ 910,698
REVISED FY 82 ESTIMATED COST	$23,597,340
FY 83 ESTIMATED COST	$25,120,871
OVERALL INCREASE	$ 1,523,531
ANALYSIS OF INCREASE:	$ 1,290,916
NON-NEGOTIABLE	$ 232,615
TOTAL	$ 1,523,531

Mr. SOWLE. It may be helpful or informative to portray at this time the total of Federal Government procurement dollars that are going to small and small disadvantaged businesses.

During fiscal year 1982 the Federal Government reported 18.9 million contract actions, for a total of $159 billion. Of that $159 billion, 20 percent was awarded to small and small disadvantaged businesses as prime contracts. In addition, we estimate that over 10 percent was subcontracted to small businesses. Thus, small and small disadvantaged businesses received over $45 billion from the Federal contracting process in fiscal year 1982. We think that this certainly is a significant amount.

The revision of OMB circular A-76 began 1 year ago in February with the formulation of an interagency task group made up of representatives from the Department of Defense, the Veterans' Administration, General Services Administration, Office of Personnel Management, Treasury, Agriculture, Health and Human Services, and the National Aeronautics and Space Administration.

One of the first drafts developed by the task group included a paragraph which simply stated that agencies were encouraged to consolidate commercial activities where appropriate. The rationale for this proposed language was based on DOD's experience that it took relatively less time and resources to review one large activity than many small activities. The Department of Defense experience also indicates that if a consolidated contract is awarded, the administrative and management burden on the Government was considerably reduced after contract award because they had to monitor one contract rather than several.

Full implementation of A-76, we believe, will increase business opportunities for both large and small business. There have been concerns expressed that the consolidation language in the policy revision could restrict contract opportunities for small and small disadvantaged businesses which had neither the experience nor the resources to bid for such large contracts. Therefore, we have added language to require subcontracting in consolidated contracts. Basically, this language requires that if an agency elects to issue a consolidated solicitation, it must do several things. It must:

Require small and small disadvantaged subcontracting plans in all bids and proposals for multifunction solicitations from large business;

Establish a minimum level of small and small disadvantaged business subcontracting, normally 50 percent of the total contract effort, in formally advertised procurements awarded to large business;

Use the subcontracting plan as an award evaluation factor in negotiated procurements;

Provide for an incentive fee to the prime contractor for exceeding the level of subcontracting established in those approved plans.

The proposed revision further requires agencies to:

Maintain a reasonable balance between those activities that are consolidated and those that are reviewed individually and provide prime contract opportunities for small and small disadvantaged businesses;

Require functions currently performed by small and small disadvantaged business contractors to be continued as small business contracts until the original program for that contractor is completed;

Report small and small disadvantaged business subcontracting, as required by Public Law 95-507, but in addition it would add the requirement for subcontract awards to also be included in the same system.

Mr. Chairman, I want to assure you this morning that the final version of OMB's circular A-76 will aid in meeting President Reagan's commitments to enhance small business opportunities and, as stated in his December 17, 1982 memorandum, to "encourage private firms to expand their business transactions with minority enterprises," and "to expand minority enterprise participation in Federal Government subcontracts."

The President directed the "Department and agency heads to develop and implement incentive techniques that will encourage greater minority business subcontracting by Federal prime contractors." We believe the A-76 proposed revision is a substantial step in this direction. However, the door is not closed to further revisions to make the A-76 policy more effective.

We expect to meet with members of the committee staff to receive any further comments of this committee as we put together the comments that we have received from many different sources. We plan to review those with your committee staff.

Mr. Chairman, this concludes my prepared statement. I would be pleased to try to answer any questions you might have.

Senator RUDMAN. Thank you very much, Mr. Sowle, for your statement.

[Material follows:]

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

OFFICE OF FEDERAL
PROCUREMENT POLICY

HOLD FOR RELEASE UNTIL DELIVERY
EXPECTED AT 9:30 A.M., APRIL 5, 1983

STATEMENT OF DONALD E. SOWLE
ADMINISTRATOR
OFFICE OF FEDERAL PROCUREMENT POLICY
OFFICE OF MANAGEMENT AND BUDGET
BEFORE THE
SENATE COMMITTEE ON SMALL BUSINESS

APRIL 5, 1983

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I APPRECIATE THIS OPPORTUNITY TO DISCUSS THE ADMINISTRATION'S PROPOSED REVISION TO OMB CIRCULAR NO. A-76, ENTITLED: "PERFORMANCE OF COMMERCIAL ACTIVITIES," AND ITS IMPACT ON SMALL AND SMALL DISADVANTAGED BUSINESSES.

SPECIFICALLY, MY PREPARED STATEMENT WILL FOCUS ON: (1) THE NATURE OF THE A-76 PROGRAM; (2) THE SCOPE OF CONSOLIDATED CONTRACTS; AND (3) PROPOSED LANGUAGE ON CONSOLIDATIONS. I WOULD ALSO LIKE TO REFER TO TESTIMONY PERTAINING TO TWO CASE HISTORIES OF CONSOLIDATED CONTRACTS.

WHAT IS THE A-76 PROGRAM?

As you know, Mr. Chairman, this program has been in effect since 1955. Its main objective is to find the most economical and effective way for the Government to obtain a needed commercial product or service, either by in-house performance with Government employees or by contracting with private industry.

The heart of the A-76 process is the cost comparison study. This is the analysis of cost of performance by contract compared to the cost of Government performance. Decisions to continue in-house operation of commercial activities or to change to contract (or vice versa) are based upon the results of the cost comparison study.

The potential for savings from A-76 implementation is significant. Six billion dollars of commercial activities are eligible for cost studies; about $4 billion of which are operated by the Defense Department, with the remaining $2 billion operated by civilian agencies.

The majority of the $6 billion has not been cost studied. Once it is, we estimate the Government will achieve a 5-year cumulative savings of $5 billion, whether the work remains

IN-HOUSE OR IS PERFORMED BY CONTRACT. SAVINGS OF OVER $1 BILLION ANNUALLY WOULD CONTINUE AFTER FISCAL YEAR 1987.

WHAT ARE CONSOLIDATIONS?

AS AGENCIES EXAMINE THEIR COMMERCIAL ACTIVITIES AND SCHEDULE THEM FOR REVIEW, MANAGERS USUALLY EXAMINE THE POSSIBILITY OF COMBINING SEVERAL SINGLE RELATED ACTIVITIES INTO A CONSOLIDATED MULTI-FUNCTION PACKAGE. IF THE REVIEW RESULTS IN A DECISION TO CONTRACT, A CONSOLIDATED TYPE CONTRACT WOULD BE AWARDED.

CONSOLIDATIONS ARE A SMALL PART OF THE TOTAL

CONSOLIDATED CONTRACTS ARE USED ONLY IN INSTANCES WHERE IT PROVES TO BE IN THE BEST INTERESTS OF THE GOVERNMENT AND THE TAXPAYER.

THE NUMBER OF CONSOLIDATED REVIEWS ARE SMALL COMPARED TO THE NUMBER OF SINGLE ACTIVITY REVIEWS THE DEFENSE DEPARTMENT HAS SCHEDULED FOR FISCAL YEAR 1983.

OF THE 556 STUDIES SCHEDULED, 489, OR 88%, ARE SINGLE ACTIVITY REVIEWS; 21 ACTIVITIES, OR 4% ARE SMALL CONSOLIDATIONS OF 2 TO 4 ACTIVITIES; AND 46, OR 8% ARE LARGE CONSOLIDATIONS OF 5 OR MORE RELATED ACTIVITIES.

THE DEFENSE DEPARTMENT IS THE ONLY AGENCY CURRENTLY USING LARGE CONSOLIDATED CONTRACTS FOR A-76 STUDIES, AND IT HAS ONLY 17 CONSOLIDATED CONTRACTS TOTALING APPROXIMATELY $214 MILLION, WHICH IS APPROXIMATELY 5% OF THE $4.7 BILLION CONTRACTED COMMERCIAL ACTIVITIES IN DOD. OF THESE 17 CONSOLIDATED CONTRACTS, TWO WERE AWARDED TO SMALL BUSINESSES.

WE BELIEVE THAT THESE FACTS ILLUSTRATE THAT THE DEFENSE DEPARTMENT HAS DEVELOPED A WELL-BALANCED APPROACH TO PACKAGING COMMERCIAL ACTIVITIES FOR A-76 COST STUDIES. THE OVERWHELMING MAJORITY OF COST STUDIES ARE SCHEDULED FOR SINGLE COMMERCIAL ACTIVITIES, THUS PROVIDING A LARGE NUMBER OF PRIME CONTRACT OPPORTUNITIES FOR SMALL AND SMALL DISADVANTAGED FIRMS. IN ADDITION, THERE ARE SIGNIFICANT SUBCONTRACTING OPPORTUNITIES UNDER THE "UMBRELLA" CONTRACT AWARDS. IN ONE ARMY EXAMPLE, SLIGHTLY MORE THAN 50% OF THE CONTRACT DOLLARS FLOW TO SUBCONTRACTORS, WITH 60% OF THOSE SUBCONTRACT DOLLARS GOING TO SMALL OR SMALL DISADVANTAGED BUSINESSES. A NAVY EXAMPLE SHOWS 33% OF THE TOTAL CONTRACT DOLLARS SUBCONTRACTED TO SMALL OR SMALL DISADVANTAGED BUSINESSES.

IT MAY BE USEFUL TO PORTRAY THE TOTAL OF FEDERAL GOVERNMENT PROCUREMENT DOLLARS THAT ARE GOING TO SMALL AND SMALL DISADVANTAGED BUSINESSES.

During FY 1982, the Federal Government reported 18.9 million contract actions, for a total of $159 billion. Of that $159 billion, 20% was awarded to small and small disadvantaged businesses as PRIME contracts. In addition, it is estimated that over 10% was subcontracted to small businesses. These small and small disadvantaged businesses received over $45 billion from the Federal contracting process in FY 1982, certainly a significant amount.

TWO CASE HISTORIES OF CONSOLIDATED CONTRACTS

Mr. Chairman, in the interest of time, I would like to submit for the record two prepared statements pertaining to actual experience with consolidated contracts that were presented to the Senate Armed Services Subcommittee on Manpower and Personnel on March 23, 1983, and which discuss more fully the two cases I just mentioned a moment ago.

PROPOSED CONSOLIDATIONS LANGUAGE

The revision to A-76 began one year ago in February with the formulation of an Interagency Task Group made up of representatives from Defense, Veterans Administration, General Services Administration, Office of Personnel Management, Treasury, Agriculture, Health and Human Services, and

THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION. ONE OF THE FIRST DRAFTS DEVELOPED BY THE TASK GROUP INCLUDED A PARAGRAPH WHICH SIMPLY STATED THAT AGENCIES WERE ENCOURAGED TO CONSOLIDATE COMMERCIAL ACTIVITIES WHERE APPROPRIATE. THE RATIONALE FOR THIS PROPOSED LANGUAGE WAS BASED ON DOD'S EXPERIENCE THAT IT TOOK RELATIVELY LESS TIME AND RESOURCES TO REVIEW ONE LARGE ACTIVITY THAN MANY SMALL ACTIVITIES. DEPARTMENT OF DEFENSE EXPERIENCE ALSO INDICATES THAT IF A CONSOLIDATED CONTRACT IS AWARDED, THE ADMINISTRATIVE AND MANAGEMENT BURDEN ON THE GOVERNMENT WAS CONSIDERABLY REDUCED AFTER CONTRACT AWARD BECAUSE THEY HAD TO MONITOR ONE CONTRACT RATHER THAN SEVERAL.

OUR REASON FOR INCLUDING LANGUAGE ON CONSOLIDATION WAS TO FURTHER THE IMPLEMENTATION OF A-76. FULL IMPLEMENTATION OF A-76 WILL INCREASE BUSINESS OPPORTUNITIES FOR BOTH LARGE AND SMALL BUSINESS. THERE HAVE BEEN CONCERNS EXPRESSED THAT THE CONSOLIDATION LANGUAGE IN THE POLICY REVISION COULD RESTRICT CONTRACT OPPORTUNITIES FOR SMALL AND SMALL DISADVANTAGED BUSINESSES WHICH HAD NEITHER THE EXPERIENCE NOR THE RESOURCES TO BID FOR SUCH LARGE CONTRACTS. THEREFORE, IN KEEPING WITH THE EXECUTIVE AND LEGISLATIVE DESIRES TO INCREASE BOTH PRIME AND SUBCONTRACT AWARDS TO SMALL AND SMALL DISADVANTAGED FIRMS, WE HAVE ADDED LANGUAGE TO REQUIRE SUBCONTRACTING IN CONSOLIDATED CONTRACTS. BASICALLY, IF AN AGENCY ELECTS TO ISSUE A CONSOLIDATED SOLICITATION, IT MUST:

- Require small and small disadvantaged subcontracting plans in all bids and proposals responding to multi-function solicitations (from large business);

- Establish a minimum level of small and small disadvantaged business subcontracting (normally 50 percent of total contract effort) in formally advertised procurements (awarded to large business);

- Use the subcontracting plan as an award evaluation factor in negotiated procurements; and

- Provide for an incentive fee to the prime contractor for exceeding the level of subcontracting established in the approved plans.

The proposed revision further requires agencies to:

- Maintain a reasonable balance between those activities that are consolidated and those that are reviewed individually and provide prime contract opportunities for small and small disadvantaged businesses;

- REQUIRE FUNCTIONS CURRENTLY PERFORMED UNDER SMALL AND SMALL DISADVANTAGED BUSINESS CONTRACTORS TO BE CONTINUED AS SMALL BUSINESS SUBCONTRACTS, AND THAT ALL FUNCTIONS CURRENTLY PERFORMED UNDER 8(A) CONTRACTS BE CONTINUED AS DIRECTED SUBCONTRACTS WITH THE INCUMBENT -- AS LONG AS PRICE AND PERFORMANCE ARE SATISFACTORY -- UNTIL THE ORIGINAL PROGRAM FOR THAT CONTRACTOR IS COMPLETED; AND

- REPORT SMALL AND SMALL DISADVANTAGED BUSINESS SUBCONTRACTING, AS REQUIRED BY P.L. 95-507, USING A SINGLE REPORTING SYSTEM AND GOAL FOR PRIME AND SUBCONTRACT AWARDS FOR SMALL AND SMALL DISADVANTAGED BUSINESS AWARDS (FOR CONTRACTS OVER $500,000).

WE RECOGNIZE THESE ADDITIONAL INCENTIVES FOR SUBCONTRACTING TO SMALL BUSINESSES MAY BE OPTIMISTIC IN VIEW OF SOME INTERPRETATIONS OF CONGRESSIONAL INTENT IN P.L. 95-507. WE HAVE MET WITH NUMEROUS SMALL BUSINESS REPRESENTATIVES IN AN EFFORT TO DETERMINE THE MOST SUITABLE APPROACH. WE INTEND TO MEET AGAIN WITH THESE INDIVIDUALS ONCE WE HAVE REVIEWED ALL OF THE WRITTEN COMMENTS ON THE PROPOSED A-76 REVISION AND WOULD BE PLEASED TO MEET WITH THE MEMBERS AND STAFF OF THIS COMMITTEE, AS WELL, TO GAIN THE BENEFIT OF YOUR VIEWS AND CLARIFY ANY POTENTIAL MISUNDERSTANDINGS THAT COULD ARISE WITH THE REVISED POLICY.

Mr. Chairman, I want to assure the Committee that the final version of OMB Circular A-76 will aid in meeting President Reagan's commitments to enhance small business opportunities and, as stated in his December 17, 1982, memorandum, to "encourage private firms to expand their business transactions with minority enterprises," and "To expand minority enterprise participation in Federal Government subcontracts." The President directed, "department and agency heads to develop and implement incentive techniques that will encourage greater minority business subcontracting by Federal prime contractors." We believe the A-76 proposed revision is a substantial step in this direction.

Mr. Chairman, this concludes my prepared statement. I will be pleased to respond to any questions the Committee may have.

PART I -- POLICY IMPLEMENTATION

Chapter I -- Implementation Instructions

A. GENERAL

This part sets forth step-by-step instructions for implementing the Circular. Flow charts and flow chart narratives referencing the Circular (Exhibits 1, 2 and 3) and other parts of this supplement explain each step in the process for existing commercial activities and expansions, existing contracts and new requirements.

B. INVENTORY LISTS

1. Each agency shall immediately compile an inventory of all Government commercial activities (as defined in paragraph 6.a. of the Circular) which it operates, listing separately activities of 10 FTEs[1] or less and activities of more than 10 FTEs.

2. For each activity, the inventory shall describe, as a minimum, the number of FTEs, the nature and location, the date of the last review justifying continued in-house performance, and the date of the next scheduled review.

3. Each agency shall update its inventory annually.

C. REVIEWS

1. Existing In-House Commercial Activities

a. Agencies shall schedule reviews of commercial activities in their inventories. As soon as practicable, the review schedules will be published in the Commerce Business Daily or the Federal Register for the information of prospective contractors, all potentially affected employees and their representatives and other interested parties. Changes to the review schedule require 30-day advance public notice in the Federal Register or Commerce Business Daily.

b. Consideration should be given to consolidating commercial activities into a single statement of work for cost comparisons and potential contracts. Consolidating activities that are related by nature or work location has many advantages: expediting the completion of the scheduled cost comparisons; simplifying the administrative process; providing greater economy through integration of activities; reduced contract administration and evaluation costs; and simplified management control. However, such consolidated contracts are usually performed by large service contractors and this may reduce prime contract opportunities for small and small disadvantaged businesses. Consistent with the Government's commitment to foster business opportunities for small and small disadvantaged businesses, agencies shall:

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[1] A Full-Time Equivalent (FTE) workyear is the planned use of 2,080 straight time paid hours in a fiscal year (to include authorized leave and paid time off for training). For example, in the case of full-time employees with permanent appointments "one FTE" is normally comparable to "one employee." For part-time employees, two part-time employees, each working 1,040 straight time paid hours in a fiscal year equals "one FTE."

(1) Maintain a reasonable balance between those activities that are consolidations and those that are reviewed individually and provide prime contract opportunities for small and small disadvantaged business;

(2) Encourage subcontracting to small and small disadvantaged business under multi-function solicitations by:

(a) Requiring small and small disadvantaged business subcontracting plans in all bids and proposals responding to multi-function solicitations;

(b) Establishing a minimum acceptable level of small and small disadvantaged business subcontracting (normally 50 percent of total contract effort) in formally advertised procurements;

(c) Using the subcontracting plan as an award evaluation factor in negotiated procurements; and

(d) Providing for an incentive fee to the prime contractor for exceeding the level of subcontracting established in the approved plans.

(3) Require that all functions currently performed by small and small disadvantaged business contractors must be continued as small business subcontracts, and that all functions currently performed under 8(a) contracts must be continued as directed subcontracts with the incumbent (as long as price and performance are satisfactory) until the original program for that contractor is completed; and

(4) Report small and small disadvantaged business subcontracting as required by P.L. 95-507, using a single reporting system and goal for prime and subcontract awards for small and small disadvantaged business awards.

BACKGROUND MEMORANDUM

On January 17, 1983, the Office of Management and Budget (OMB) issued its proposed revision of Circular A-76, "Performance of Commercial Activities." The forerunner to this document was first issued in 1955 and set forth the policy and method by which the Federal government will contract with the private sector. Since that time, extensive revisions have periodically occurred; however, the essential message of the Circular has remained consistent. That is, that Federal agencies will conduct cost comparisons of commercial activities they operate to determine the most economical method of performing the work -- either in-house or through contracting with the private sector. It should be kept in mind that contrary to common misperception, A-76 only requires that cost comparisons be conducted, it does not necessarily follow that the activities examined will be offered out to the private sector.

Among the many revisions proposed by OMB is the addition of a section which encourages contract consolidations for the purpose of conducting cost comparisons. Consolidations result from combining several different activities which are being performed independently into a single contract. The company which eventually received this consolidated contract would then be responsible for all the various aspects of that contract. This, ideally, would free the Federal government from the burden of administering numerous independent contracts. (Even though activities are consolidated only for cost comparison purposes under this proposal, the problem arises if it is determined that such a consolidated contract should be awarded to a private sector firm. At that time the actual award will be based upon the cost comparison. In essence the study used for cost comparison purposes will eventually be the actual contract offered.)

Issue

Any activity which is procured by a Federal agency is subject to a cost comparison examination under A-76. The fears of many small businesses, and of Federal small and minority businesses contract specialists, are twofold. First, that the activities which are currently under contract to small businesses will be consolidated and the new contract will be awarded to a large firm. Under the proposal there is no requirement that any portion of the consolidated contract be subcontracted to a small business. Secondly, that the size of the consolidated contracts will effectively preclude small businesses from successfully bidding on them. Should these two fears be realized there would be a significant decrease in the amount of prime contracts awarded to small business. There is the additional possibility that the large firms would not even subcontract to small business.

Hearing

The April 5 hearing has been structured as a forum at which both sides of this issue will be presented. One problem is that this is a new proposal and there is a lack of empirical data on the result of large scale contract consolidations. Therefore, the witnesses will explain the issue and express their concerns over the potential impact of this particular section of A-76.

The first witness will be Donald Sowle, Administrator, Office of Federal Procurement Policy (OFPP), Office of Management and Budget. He will explain the reasons for the inclusion of the sections encouraging contract consolidations.

Following Sowle will be Jack Rennie, President of Small Business United and Steve Denlinger, President of the Latin American Manufacturers Association (LAMA). They will express the concerns the small business community has with the proposed version. Denlinger will emphasize the potential impact this would have on minority firms.

The last panel will present a private sector view in support of the proposed revision. Bill Russell, will represent the Business Alliance for Government Competition. (This ad hoc coalition of business groups has formed to fight for certain changes in current law, especially contracting-out.) Members of the alliance include: Aerospace Industries Association, Electronic Industries Association, Professional Services Council, and the American Consulting Engineers Council.

Russell will present his case for contract consolidations. He was previously associated with OFPP and is intimately familiar with Circular A-76. His presentation will focus on the degree to which this proposal can increase the total amount of Federal procurements which are available to the private sector.

Ernie Althiemer, President of Sphere, Inc., Seattle, Washington is a small businessman who favors consolidated contracts. He has had some positive experiences as a subcontractor on a large consolidation.

The hearing should last about 2 - 2 1/2 hours.

Comment

In spite of the concern expressed by small businesses and by Federal small business specialists, I think it is important to keep in mind that this section is a proposed revision. OMB has emphasized that they are willing to work with the Committee to resolve the concerns of the various alienated parties. In light of this fact, this hearing is planned to air the different views on the issue.

Senator RUDMAN. I am pleased that you obviously are showing a willingness to do what may have to be done to make whatever revisions are necessary to achieve both your goal and the overriding goal of this committee and the President.

I wonder whether or not you had any economic studies done prior to the publication of this proposal as to whether or not consolidated contracts did result in cost savings in any other part of the Government.

Mr. SOWLE. To my knowledge—and maybe one of my cohorts here can help on this—as far as I know, there were no separate contracted studies for this sort of thing, but obviously the departments involved—in this case, the Department of Defense, in particular—have been very aware of what is happening in their consolidated contracts. I think the two cases that I submitted for the record will give you considerable information on the results of these kinds of consolidations and the benefits that do flow to small businesses.

Senator RUDMAN. I want to enter into the record at this point the comments of Mr. Frank Swain, who is the Chief Counsel for Advocacy for the Small Business Administration.

[Material follows:]

SBA
U.S. Small Business Administration Washington, DC 20416

APR 4 1983

Honorable Warren Rudman
Chairman, Subcommittee on
Innovation and Technology
Senate Small Business Committee
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Thank you for your invitation to submit a statement to the Committee concerning the Office of Advocacy's views on umbrella contracting. Government policy on contracting is an issue which rarely sees agreement among the various involved government policies. The Advocacy opinion on contracting out is that the Administration should utilize every oportunity to involve more small businesses. As the President said in his annual report:

> "Our government policies on procurement must be administered so as to utilize the best that small firms have to offer in goods and services. The role of government should not include performing services and activities that can effectively and efficiently be carried out by the private sector, and we will work for policies which increase reliance on the private sector."

The subject of your hearing is use by the procurement agencies of umbrella contracting. This has been a major concern of small business as its use becomes more prevalent by purchasing agencies. The Office of Federal Procurement Policy is currently considering a regulatory change which would affect the procedures for use of umbrella contracting. On March 16, 1983, I commented to OFPP that:

> . . .it is important to ensure that administration of the procurement process is not simplified at the expense of competition and small business interests. Any efforts at contract consolidation should, at a minimum, bear a strong burden of proof that economies will result, thus allowing a fully informed decision as to whether those economies are of such magnitude as to weigh against the loss of participation by small firms. In other words, we believe there should be a regulatory presumption against consolidation which must be overcome by the agency."

A copy of the entire letter is attached. The Office of Advocacy believes umbrella contracting should be allowed only after proving that efficiencies will clearly result. If you or the committee have further specific questions, I am happy to respond.

Yours very truly,

Frank S. Swain
Chief Counsel for Advocacy

SBA

U.S. Small Business Administration Washington DC 20416
Office of the Administrator

MAR 16 1983

Mr. LeRoy J. Haugh
Associate Administrator for Policy Development
Office of Federal Procurement Policy
Office of Management and Budget
726 Jackson Place, N.W.
Room 9013
Washington, D.C. 20503

Re: Proposed Revision to OMB Circular A-76 "Performance of Commercial Activities"

Dear Mr. Haugh:

These are the comments of the Office of Advocacy, U.S. Small Business Administration (SBA) on the Office of Federal Procurement Policy (OFPP) proposed revisions to OMB Circular No. A-76.

As you are aware, the Office of the Chief Counsel for Advocacy is authorized by P.L. 94-305, 15 U.S.C. Section 634(c) to represent the views and interests of small business before the Federal government. Specifically, we monitor agencies and the rules and regulations they develop, as well as articulate small business concerns before the Congress.

The proposed revisions to OMB Circular A-76 recognize and adopt a policy which the Office of Advocacy has long supported -- the Federal government should rely on private enterprise to provide goods and services whenever to do so is economically beneficial. We support this policy for two reasons. First, it is a policy geared toward productivity and competition which furthers the national goal of economy in government. Second, as the revised policy letter specifically recognizes, private business, especially small business, can provide better and cheaper goods and services than the government itself can provide.

The contracting out of commercial activities has been an established policy of the Federal Government since 1955 and has been a permanent directive since 1966 when the first Circular A-76 was issued. The most recently proposed revision to A-76, and its instructional supplement, is an improvement over its 1979 predecessor because it requires that the Government rely on the private sector for its needed goods and services unless a cost comparison demonstrates that the government itself can perform more economically. Indeed, the latest revision removes some of the in-house biases evident in the 1979 revision. An

SBA report substantiates the fact that the private sector can produce goods and services more efficiently than the Government.[1]

Small business is the most diverse and competitive segment of the private sector and utilizing its efficiencies should be central to the Federal procurement process. However, despite the attempts of small business advocates to promote use of small business in Federal procurement, small business participation is still at a very low rate.

One revision in Circular A-76 which should help reverse this trend is the simplification of the procurement process. For example, the proposal establishes a threshold of ten full-time equivalents (FTE) below which all commercial activities should be contracted out without a cost comparison. Because commercial activities requiring ten FTEs or less are normally for small dollar amounts and are performed most effectively by small business, converting these activities directly to contract should encourage small business procurement participation.

However, while a more efficient procurement process should result from a revised Circular A-76, we have several reservations with the proposed revision to Circular A-76.

CONSOLIDATION OF CONTRACTS

Of utmost concern to small business is Part 1, Chapter 1, section (C)(1)(b) Policy Implementation Supplement to the Circular:

> Consideration should be given to consolidating commercial activities into a single statement of work for cost comparisons and potential contracts. Consolidating activities that are related by nature or work location has many advantages: expediting the completion of the scheduled cost comparisons; simplifying the administrative process; providing greater economy through integration of activities; reduced contract administration and evaluation costs and simplified management control. 48 Fed. Reg. 1376, January 12, 1983.

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[1] Government Competition: A Threat to Small Business, Report of the SBA Advocacy Task Group on Government Competition with Small Business, March 1980.

Consolidation of contracts may have some advantages from an administrative point of view. Whether this assertion is accurate or not, it is important to ensure that administration of the procurement process is not simplified at the expense of competition and small business interests. Any efforts at contract consolidation should, at a minimum, bear a strong burden of proof that economies will result, thus allowing a fully informed decision as to whether those economies are of such magnitude as to weigh against the loss of participation by small firms. In other words, we believe there should be a regulatory presumption against consolidation which must be overcome by the agency.

For the most part, it is unlikely that consolidation of work into a single statement for cost comparison and potential contract purposes will simplify or expedite the cost comparison process. An assessment of the economic advantages to performing commercial activities inside or outside government depends upon an accurate assessment of each of the components of the consolidated contract.

While consolidation may facilitate an agency's administration of a contract once it has been let by bestowing in one firm all responsibilities of the contract, its use as a way to simplify an administrative function may result in a less competitive procurement system.

When agencies consolidate contracts, small businesses are often precluded from participation as prime contractors. This relegates small business to the role of subcontractor, dependent upon the good faith of large prime contractors. It is essential that small firms not be perceived of solely as subcontractors.

The proposed revision emphasizes the government's commitment to small business by directing agencies to "maintain a reasonable balance" between those activities that are consolidations and those that are reviewed individually and provide prime contract opportunities for small and small disadvantaged businesses.

We are concerned that the term "reasonable balance" is too vague to be applied in any consistent fashion, so that small business bidders and government managers alike will know the rules.

For example, in one situation that came to our attention, consolidation of work by nature or location was overzealously utilized by the contracting agency. A two and one-half inch thick, multi-million dollar contract put out for bid by the Navy included widely varying functions which were related to each other only by location. These functions included:

Heating maintenance and operation;
Ventilation maintenance and operation;
Air conditioning maintenance and operation;
Refrigeration maintenance and operation;
Grounds and surface area maintenance;
Motor vehicle operation and maintenance;
Utility plant operation and maintenance;
Supply;
Fire protection services;
General mess operations;
Guard services;
Custodial services;
Refuse collection and disposal;
Telephone services;
Base communications, electronics; and
Pest control.

Placing many dissimilar activities together in one request for proposal precludes small business from bidding because, by definition, they cannot perform the necessary range of services in a contract of that size.

We urge that unambigious language be established ensuring that an agency does not exploit its use of consolidated contracts at small business' expense.

EXEMPTION OF RESEARCH AND DEVELOPMENT AWARDS

We are opposed to the total exemption of research and development (R&D) awards from Circular A-76. Exempting all R&D presumes that any inefficiencies in the present extramural-intramural breakdown would be less than the cost of the periodic selected Circular A-76 analyses. This is difficult to believe given $20 billion in R&D contract actions over $10,000 in FY 1982 and $10 billion in obligations for intramural performance in the same year. The government would benefit from a periodic examination of a least some of its R&D activities, both extramural and intramural.

RELIANCE ON FOR-PROFIT ENTITIES

While A-76 appears to re-emphasize the government's reliance on the private sector for its goods and services, it is unclear what procurement preference is given to for-profit, non-profit, university or any other non-Federal activity. The 1979 version to A-76 departed from previous treatment accorded the private sector by skewing the cost comparison analysis to favor in-house performance. The recent proposal alters that bias, but it does not address the advantages of relying on for-profit entities for government goods and services rather than non-profit institutions.

Naturally, non-profit institutions play a vital role in our society. However, the Office of Advocacy is concerned with performance by non-profits of certain activities which have been conducted traditionally by private enterprise. Using non-profit entities to perform commercial activities is not only detrimental to small business and competition but also robs the Federal Government of much needed tax revenues. Paragraph 5(a) of the Circular should be restated to ensure that private businesses are granted preference over universities or other non-profit entities for activities which traditionally are performed by private enterprise.

For the same reasons, we would oppose in Paragraph C "Preferential Procurement Programs" of Part I, Chapter 3 of the Supplement the inclusion of any programs other than those for small, minority-owned and disadvantaged businesses, small business/labor surplus area set-asides and awards made under Section 8(a) of the Small Business Act.

Such changes would help to curb the incidence of subsidized competition with the small business community by non-profit or university sources.

APPEALS PROCEDURES

Another concern to small business is paragraph 7k of the Circular. This paragraph states that Circular A-76 "does not establish and shall not be construed to create any substantive or procedural basis to challenge any agency action on the basis that such action was not in accordance with this Circular, except as specifically set forth in Part 1, Chapter 2-I of the Supplement, 'Appeals of Cost Comparison Decision'".

This means that no affected party has a standing to seek redress unless the appeal is based on an improper cost comparison. We believe that affected parties should be able to appeal contract determinations even when the decision to perform the contract in-house is not based upon a cost comparison. For example, a small business may want to challenge an agency's determination that a certain activity is a government function. The limited appeal provision will discourage agencies from doing cost-comparisons in the first place.

It is especially important that some provision be made for appealing such agency determinations because the General Accounting Office (GAO) has for the most part declined to address them. In a series of decisions, the GAO has refused to consider protests regarding the propriety of an agency's decision to contract out rather than perform the work in-house because these are "matters of executive policy not within the protest decision function" of GAO (Comp. Gen. B-199564 (Aug. 6, 1980)). (See also Comp. Gen. B-197589 (Mar. 3, 1981), Comp. Gen. B-194505 (July 18, 1979)). Accordingly, some meaningful avenue of appeal must be provided.

MILITARY PROGRESSION

Section 8(3)(b)(1)(c) of the Circular also creates problems for small business in stating that "[a] Government commercial activity may be operated by military personnel whenever: The activity is needed to provide appropriate work assignments for military career progression or a military rotation base for overseas assignments."

This section is worded vaguely and allows for overly subjective interpretation. This section could be cited in too many instances as a justification for using military personnel for work which properly should be performed by the private sector. Furthermore, as proposed, there is no appeal of a decision of this nature. Accordingly, we believe that this paragraph should be clarified to prevent military progression or rotation from deterring small businesses from seeking contracting opportunities from the Department of Defense.

CONCLUSION

Despite the general merits of the new proposed Circular A-76, particularly its re-emphasis on reliance on the private sector for Government goods and services, we believe that further changes are necessary to ensure competitiveness and economy. Modification of Chapter 1 Paragraph (C)(1)(b) is essential to small business participation in the procurement program and to the program's success. Without the contribution of small business, both as prime and subcontractors, an economical and highly productive procurement policy will not result.

Thank you for the opportunity to present our views on this proposal. We will be happy to respond to further comments or issues raised as OFPP considers this very important small business issue.

Sincerely,

Frank Swain

Frank S. Swain
Chief Counsel for Advocacy

Senator RUDMAN. He expressed some grave concern with the proposed language. We are entering his comments to OFPP on the 16th of March into the record.

I want to read just part of that statement to you, Mr. Sowle. I am sure you are familiar with it. I will quote here.

He said:

> * * * it is important to ensure that administration of the procurement process is not simplified at the expense of competition and small business interests. Any efforts at contract consolidation should, at a minimum, bear a strong burden of proof that economies will result, thus allowing a fully informed decision as to whether those economies are of such magnitude as to weigh against the loss of participation by small firms. In other words, we believe there should be a regulatory presumption against consolidation which must be overcome by the agency.

Do you agree with that statement?

Mr. SOWLE. I do not agree with it 100 percent.

Senator RUDMAN. With what parts of it do you disagree?

Mr. SOWLE. The part with which I disagree is that the consolidations will be harmful to the interests of small business.

In the past, if we look back over the years, I think perhaps there have been some allegations made that when contracts go to large business that they have not been significantly aware of the participation by small business. We think that our policy—and, incidentally, we are still talking to SBA about this—we think that our policy and the requirements we have put in will actually benefit small business much more than it ever has been before. We can establish requirements in the contract, legally in our view, that will place an incumbency upon the prime contractor to assure that small business does participate. We are trying to make that as clear as possible in the policy. Of course, we will have to follow through once the policy is issued.

Senator RUDMAN. Let me further quote another part of Mr. Swain's statement. He said:

> * * * it is unlikely that consolidation of work into a single statement for cost comparison and potential contract purposes will simplify or expedite the cost comparison process.

Given this statement and the fact that OFPP commissioned no independent cost analyses, how do you justify incorporating this section into the proposed revision?

Mr. SOWLE. I think Mr. Holland has been working on this problem, in particular, if you do not mind——

Senator RUDMAN. No, not at all.

Mr. HOLLAND. Mr. Chairman, our experience within Defense found that one of the things that we were doing when the Interagency Task Force was put together to revise the A-76 circular was to expedite the process. DOD's experience found, especially in the Army where they tracked this, that if they would consolidate certain like activities or geographically similar activities, they could get studies completed in around 18 to 22 months, which could wrap up as many as 43 studies, plus the contract rate on umbrella contracts was higher, 80 percent. With the larger packages, economies of scale took over and more studies actually went contract, which would be better for the business community obviously, than in small individual contracts that showed no savings to the Government and stayed in-house.

The success rate on small contracts was lower, plus it was easier to manipulate the cost comparison process at that time.

We used Defense experience to show that you could do more studies more rapidly using the consolidated approach than you could with several small independent studies.

Their experience was based on a track record of about, at that time, 13 consolidated studies against the more than 300 or 400 individual studies. There was no actual look to see what happens if 18 small businesses were to bid on each individual function, and then take a large corporation and let it bid on the total function to see which price would be cheaper. That has been proposed. It was proposed last fall to let Defense test this approach, in fact, then take the most economical method, whether it was the large business prime or if it was going to be 18 small businesses. We understood the small business community in DOD were opposed to this. We thus have not tested it. We are waiting to see what will be finalized in the language, and then we would be more than willing to monitor a test.

It was, again, based on 3 years of actual experience. That is why we developed this suggested language.

Senator RUDMAN. You have presented two cases of successful umbrella contracts, and Mr. Swain provided you with an example of a multimillion-dollar contract that contained 16 different functions. He pointed out that it would be impossible for a small business to bid on a contract of this size because by definition they could not perform the range of services.

How would you propose that in that type of a contract—you alluded to this in your testimony, Mr. Sowle—how would you specifically handle that?

I do not have to repeat the one I am talking about because you are familiar with that particular contract.

Mr. SOWLE. Yes.

Senator RUDMAN. It has about 16 components, ranging from heating maintenance and operation to pest control. It is fairly broad range.

Mr. SOWLE. Yes. Mr. Chairman, this is part and parcel of the same thing we were just talking about.

Insofar as the Defense Department is concerned, and they obviously have great concern for readiness, they feel that they must consolidate many contracts in order to have a good operating contract at the base level. Insofar as the participation, we are making the policy very strong, in that a certain amount of subcontracting will be awarded to small businesses and small disadvantaged businesses, and that those will be part of the negotiated process.

Most of these large contracts—in fact, all of them—are actually negotiated-type contracts, competitively negotiated. They would have to agree to a certain amount of subcontracting to small and small disadvantaged businesses.

We think that this is a workable arrangement. We think, also, that if the contractor and the Government agree to a certain level of subcontracting to small businesses that an award fee could be used. That is a fee that would be given to the contractor for exceeding the agreed-upon dollars awarded to small businesses. We think this is a very workable program.

Senator RUDMAN. It well may be. Sometimes things are not always as they appear, as you well know. As I look at this particular list in Mr. Swain's example, these items of function—each would be performed in my own State by a small business. There are small businesses involved in each of these 16 functions.

It seems to me, at least, that one of the ways to really pin down what this whole discussion is about and what all this dialog is about is to insure that there be two separate contracts awarded—I should say two separate tests conducted—in which a major contractor takes the umbrella for these 16 functions at base A, and these are functions, incidentally, which occur at almost every major base, and at base B you give out 16 individual subcontracts and look at costs.

It well may be that the cost may be less on a measurable basis under the 16 subcontracts, but the cost of administration to the Government, because they have to deal with 16 different people, which of course is part of the reason that you are proposing this—and I understand that—would be greater. Therefore, the cost that might be perceived might not be actual.

It just seems to me that the only way you are going to find that out is to do that.

Mr. SOWLE. Mr. Chairman, we do have part of the policy that speaks to the local managers being able to use their own judgment on how they break these kinds of contracts up. I think we have a driving force there not only in the Defense Department, in particular, but the President's memorandum which I mentioned has been implemented by Mr. Weinberger, and they are making it very forceful that they will meet their goals for small and small disadvantaged businesses, whether by prime or by sub.

I think with all of this kind of a mechanism overlaying the entire policy that we can realize the small business participation that we are estimating.

Senator RUDMAN. Do you wish to comment?

Mr. HOLLAND. Yes, Mr. Chairman. Right now we are drafting some language in response to comments that have come in on this, to say something to the effect that the contract should be packaged in such a way to insure economy and efficiency.

I talked with one contracting officer right here in the military district of Washington, and he said the language there is as flexible as you need it because we do say "when considering consolidated contracts." He says he considers but he looks at all options, regardless of how they are studied—when it comes down to issuing the contract, he will issue what is most favorable to the Government and the taxpayer. If it means breaking them down into 18 small business contracts and he can get a good price and administer them accordingly, then he feels he should have, as the procurement officer here, the flexibility to do that.

His recommendation to us was, yes, there are some inherent benefits with consolidated or umbrella contracts, but the language should say that you should package them in such a way to insure economy and efficiency while maintaining the goals of Public Law 95-507. That gives contracting officers the flexibility to do exactly what you have suggested there.

Senator RUDMAN. I think one of the grave concerns of many of the people who have been observing this entire discussion revolves around what would be the natural tendency on the part of a base commander of a major base, a major installation, military or nonmilitary but a Government operation. Obviously, if I were running a sprawling operation all over the State of Georgia, such as Ft. Benning, and I was the commanding general down there, I think probably from my own point of view, cost aside, I would find a lot of rationalization to hire X Corp. and say, "Here, you take care of all of it. If there is a problem with it, I am going to talk to you. I am not going to talk to 18 people." That is a natural tendency. That may make it easier for him to manage. It may not be better and it may not be cheaper. It just seems to me that is something that has to be guarded against.

How do you guard against that happening?

Mr. SOWLE. As you know, Mr. Chairman, when a contract is signed, that is the requirement on the contractor, to perform in accordance with the contract. Again, I think through the contract administration techniques that we have today, the emphasis placed on administration of these contracts, that we can assure that the requirements of the contract are carried out.

As I mentioned a little earlier, we would have a requirement in the policy that where consolidated contracts are actually awarded, there would be a specific amount of subcontracting that would go to small business. If small businesses are already involved in that base, as you mentioned, Ft. Benning or wherever, then that work would have to continue under our policy as a small business part of the total.

Senator RUDMAN. According to your testimony before the House Armed Services Committee earlier—it was actually the middle of last month—you said, "There is a natural managerial resistance to fragmenting activities for performance by numerous small contracts." Therefore, you obviously recognize the problem.

Mr. SOWLE. Yes, sir, we recognize it.

Senator RUDMAN. It just seems to me, and I expect to other members of this committee, that as we go down the road with this proposal, unless there are some safeguards in there which do not become, if you will, strictures to make it impossible for the program to work, unless we have some kind of—I hesitate to call them guarantees—some kind of requirement, the natural tendency that you have described here on March 16, and to which I have alluded a few moments ago, is what is going to happen. That is really the grave concern of all the people with this particular revision.

Mr. SOWLE. That is the reason, Mr. Chairman, that we have put those provisions into the policy that where there are consolidated contracts, there will be an agreement between the prime contractor, if he is a big contractor, to assure that small businesses are participating. That would be part of the negotiated arrangement. He is obligated to carry out the terms of that contract.

Senator RUDMAN. I have only one other question for you, Mr. Sowle.

We understand the cost-plus contracts are the least desirable method for procurement, although it appears that in these umbrella contracts this format would be utilized in a number of instances.

Does OFPP advocate the use of cost-plus contracts as a method of reducing contracting costs in this particular area?

Mr. **Sowle**. Yes, sir, absolutely. Cost-plus, as you refer to them—there are many kinds of cost arrangements. Cost plus a fixed fee is a very normal way, a very acceptable way, and a very proper way of getting good contractor performance in the situation where we have an umbrella-type contract. When we do have that kind of a contract, they can be negotiated. Again, we can assure that the requirements of the policy are negotiated into the contract to assure that we have a small business participation.

Most of tne contracts in the Government today, the bigger ones, are not the advertised contracts; they are negotiated and they can be fixed price. Some of these are actually fixed price negotiated, but the cost-type contracts are permissible, too. We would not differentiate. It would depend upon the circumstances in a given situation.

Senator **Rudman**. Mr. Sowle, just taking a specific example, if you had a contract for maintenance of the heating and ventilation system of a large Government complex, would you be better off to have three contractors who are duly qualified bid on that on an annual maintenance basis and give you a fixed price and thereby have an incentive to hold their costs down, rather than going on a cost plus fixed fee?

Mr. **Sowle**. If it were in a maintenance plant, I would say absolutely, that could be and should be a fixed price, but it can be a negotiated fixed price and would be a negotiated fixed price under these big contracts, not an advertised procurement; that is, where you go out and just get price alone. Price is not the only factor that should be considered.

If it is maintenance of a powerplant at a given base, obviously you want to have certain standards of maintenance that would be included, and those would be negotiated into the contract.

Senator **Rudman**. You normally would specify what was required——

Mr. **Sowle**. Yes, sir.

Senator **Rudman** [continuing]. In the request for a bid, but it just seems to me, from my own experience before getting here, that any time that you introduce competition into this process, any time you have people out there who have a fixed price who are qualified and who obviously can do the work, you probably are going to end up getting a better deal for the Government than if you, in fact, have it on a cost plus fixed fee, because with the cost plus fixed fee, even if it is negotiated, there is really no incentive on the person to keep those costs within line. That is the problem that we see with this particular aspects of these contracts.

Mr. **Sowle**. I certainly agree with you 100 percent. If you can negotiate a fixed price, it is much better. We would not want to preclude the cost-type contract, however, where it proves appropriate.

I would like to point out that in all of these contracts, whether they are large contracts or small contracts, there is negotiation—I mean, there should be competition in every case. If we do not have competition, it should be done by the Government. If we cannot get competitive contracts, then there would be no reasonable chance for transferring this to the private sector. We should not contract—transfer it to the private sector.

Senator RUDMAN. I would agree with that—if you cannot get competition into it, then really there is no advantage in doing it.

We are going to keep the record open for three days in the event that other members of this committee wish to submit questions.

Mr. Sowle, I appreciate your expressed attitude of willingness to work with the committee. Thank you very much.

Mr. SOWLE. Thank you, sir.

Senator RUDMAN. We will now ask our first panel to come forward: Mr. John Rennie, president of PACER Systems, of Burlington, Mass., and Mr. Stephen Denlinger, president of Latin American Manufacturing Association, Washington, D.C.

Gentlemen, thank you very much for being here this morning.

I think what we will do is proceed with you, Mr. Rennie.

STATEMENT OF JOHN C. RENNIE, PRESIDENT, PACER SYSTEMS, INC., BURLINGTON, MASS.; PRESIDENT, SMALLER BUSINESS ASSOCIATION OF NEW ENGLAND; PRESIDENT-ELECT, SMALL BUSINESS UNITED

Mr. RENNIE. Good morning, Mr. Chairman.

My name is Jack Rennie. I am the president of PACER Systems, which is a growing aerospace company with offices in six States. I am also president of the Small Business Association of New England and president-elect of Small Business United, of which SBANE is a member. Today I am testifying on behalf of SBU, a coalition of regional, grassroots, small business organizations covering 37 States and about 60,000 companies.

Mr. Chairman, I have a somewhat unusual background compared to most of my colleagues that run small businesses, in that at one time I was a naval officer managing procurement programs—that is, research-and-development-type programs and contracting. Then, over the past 15 years, I have started and built up a company that is on the other side of the fence, and we supply goods and services to the Government. I think this background allows me to take these views, take these subjects such as we are talking about today, and take a reasonably balanced view toward them, understanding the problems on both sides of the fence.

Senator RUDMAN. That is exactly why we wanted you here this morning.

Mr. RENNIE. Thank you.

Because of this, I have been actively involved with developing really a position on this particular issue, and I should add that over the past few months I have worked with a number of organizations based here in Washington and elsewhere around the country to find out what their attitudes were about this issue and try to hammer out where our differences were and see if we can come to some reasonable consensus on that.

These include the Business Alliance on Government Contracting, the National Small Business Association, NFIB, and many, many other organizations around the country.

I am very thankful to them that we were able to float all of the questions here and develop, I think, what we feel is a pretty decent understanding of the situation.

Over the past 15 or 20 years the small business sector in general has been quite dissatisfied with the implementation of Circular A-76. It seems to us this very important Government policy has been largely treated with disdain by a lot of Government agencies, paying a certain amount of attention to it when it suited their purposes and then in many other cases essentially obfuscating compliance or conformance with the directive.

I think what this has ended up being, Mr. Chairman, is resulting in two things. One, we have over $20 billion a year of commercial goods and services that are being produced by the Government that should be contracted out. Second, and this is more noticeable to me, there is a certain cynicism in the small business community relative to these pronouncements by the Government of Government policies, but then without the sufficient teeth in them to require enforcement.

We are glad that OMB is again looking at this particular circular. We also agree there are many features in the proposed revision that are advantageous and should help the situation, but we hope that the overall outcome of these discussions will result in a fair and, maybe most importantly, enforceable mechanism to execute the underlying policy that has been stated.

SBU has submitted extensive comments to OMB directly via letter, which we would be happy to make available to the committee, if it does not already have it.

Today I just want to highlight three elements of that, so I am not going to talk about all the things we brought up to OMB.

First of all, I would like to talk about policy reenforcement, the underlying policy; the subject of umbrella contracting; and, last, enforcement of the circular.

With regard to reenforcement, originally the broad policy of the Government was essentially not to compete with but rather to rely on the private sector for commercial goods and services. The revision in 1979, it seems to me, where they introduced the last costly alternative, subtly sort of changed the policy. In fact, even this morning in the previous testimony you can see that the whole discussion centered around cost comparisons as opposed the basic policy itself, which is that the Government is not supposed to be competing with the private sector. By introducing the idea of cost comparisons, it was an implied undermining, in our mind, of the overall policy.

This change, we feel, has impaired effective compliance of the policy, because the civil servants have tended to skew the cost comparisons in favor of the public sector. We feel that the revision should be amended to restate and reenforce the original A-76 tenet, which was that the general policy of the Federal Government is not to compete with the private sector for production of commercial goods and services.

It should also serve to reinforce the fact that a cost comparison is not a mechanism that implicitly endorses public sector competition with the private sector.

Just as an aside here, one of my subsidiaries is a small company in Pennsylvania, and they recently competed for the operation of a Navy photographic laboratory aboard a base, which was put out for bids. This company is a very small company with very little overhead, and it was a three-year contract. They bid something like $750,000, which I can guarantee you was very—they really wanted this job, so they bid it very, very tightly with low overhead rates, et cetera. The Government rejected the bid because the internal price to run this lab, the same lab, for 3 years was $295,000. Their first year bid was like $99,000; the second year, $99,300; and the third year, $99,600.

When we looked at the paperwork backing that up, there was just no rationale whatsoever for how they arrived at the price. This is the kind of thing, even in an individual's contract, that you see—this gross skewing of prices in the way the Government computes it.

Now with regard to umbrella contracting, in the proposed revision we feel there is consistent encouragement in the supplement to the revision to consolidate or "bundle" commercial activities into multifunction contracts. As has been pointed out before this morning, this obviously makes it more and more difficult for smaller companies to compete as primes.

We feel these words are somewhat inconsistent with the wording elsewhere in the proposed revision which indicate that a fair proportion of contracts should go to the smaller firms. Naturally, we feel that this objective, the latter one, is important and should be consistently reflected in the revised language, including the supplement. Naturally, we feel smaller contracts generally result in increased competition and, hence, lower the cost to the taxpayer.

However, we do understand that there are some instances when multifunction contracts make logical and economic sense. Therefore, a more balanced introduction in this section we feel would help and would reinforce the language elsewhere in the circular. If that introduction were then followed by clearly identified, quantifiable stipulations regarding small business participation, we think the revision would be considerably strengthened.

We strongly favor a redraft of that part I, chapter I, of the supplement to include the following characteristics:

First, the introduction language should not presuppose that large, multifunction contracts are the advantageous way to go but, rather, it should highlight the possible advantages and disadvantages of such an approach.

Second, there should be stipulations that would be quantifiable and enforceable regarding participation of smaller firms in this area of procurement. Specifically, what we would favor is, first, 30 percent of all commercial activities contracted out by each agency be packaged in smaller contracts and essentially set aside for small firms. Second, the requirement that 50 percent of all the effort under large umbrella contracts that are formally advertised be required by contract to be subcontracted to small business. Third, in large negotiated umbrella contracts the prime contract bidders submit small company contracting plans with their proposal and that points would be awarded for greater participation and more advantageous small company participation.

There are other features we have referred to in our letter regarding ongoing and minority contracts, which I will not go into here.

With regard to enforcement, previous versions of A-76 we feel, as we have mentioned, have not been effectively implemented. We feel that among the principal reasons for this are lack of clear assignment of responsibility for compliance within the agencies, reliance on what have proven to be weak and ineffective remedial procedures; and a lack of incentives to encourage civil service compliance.

With regard to responsibility, we would favor that each agency would have an official perhaps at the Assistant Secretary level who would be specifically designated as responsible for the agency's compliance with this circular. Perhaps the individuals that have been appointed here recently as procurement executives would be a good focal point for this.

This person would be the author, in effect, of the annual compliance report which is suggested in the circular and also would provide the contact for congressional oversight as well.

With regard to remedies and reviews, we feel that this area needs to be greatly improved. Under the existing circular, as well as the proposed revision, review of A-76 cost comparisons are limited to an appeal within the agency. We feel this is inadequate.

Also, in order to protect the jobs of agency personnel, all commercial and industrial activities have not always been subject to cost comparison analyses, as required by the circular. Even when a particular commercial or industrial activity has been identified, some agencies have at times blatantly slanted cost comparisons in favor of in-house performance.

The circular should be revised to permit review by the Comptroller General and the courts in the three areas where the compliance has been lacking: designation of commercial and industrial activities, cost comparisons, and subcontracting provisions.

The proposed annual report on compliance we feel is a step in the right direction. However, it should be accompanied by the requirement that specific reporting procedures be published soon after the acceptance of the circular. Lack of this kind of reporting requirement or deadline on it delayed the implementation, in effect, of Public Law 95-507 for over 2 years.

With regard to subcontracting, the aim, I think, is to insure fair small business participation. Contracting officers have been asked, and this has been suggested, to essentially terminate large prime contractors if they default or fail to live up to subcontracting requirements. However, I think experience has shown that contracting officers really have difficulty making these kinds of actions in concern for so-called socioeconomic requirements and seldom terminate contracts for failure to comply with these standards, unless they are faced with specific procurement rules by which they are directed to conduct their business.

It has also been suggested that GAO be a concern that might be able to get into the bid protesting activity. However, this would not apply to the subcontracting since GAO only has to do with prime contracts.

Our inclination, then, is to identify some outside activity, such as the Small Business Administration, and have that activity be charged with the responsibility of monitoring compliance and have the concomitant power to initiate remedial action, failing compliance.

On the other hand, if a satisfactory agency cannot be identified to fill that role, then, because we feel this element is so important to making the circular really meaningful, we would consider alternatives such as assigning these responsibilities to individual contracting authorities but only if Federal procurement regulations were changed to reflect the specific subcontracting requirements that I have previously outlined.

Last, with regard to agency personnel compliance, we feel that Government employees should be discouraged from evading the OMB circular by expressly making failure to comply grounds for personnel disciplinary action, and in a more positive way, if they included A-76 compliance as a part of the specific responsibilities in the jobs description, then the annual personnel performance reviews could take this into account and reward civil servants and contracting authorities who substantially exceed the goals or at least comply with the goals of the circular.

In summary, Mr. Chairman, we feel the revision of the OMB circular is a golden opportunity to reinforce the reliance on industry that has been the policy of the Government for over 20 years and to make small business' role appropriate, given its overall contributions to the national economy.

We, frankly, would like to see an initiative in Congress to provide legislative reinforcement of this policy, so that the reality of our Government's operations match the policy directives more closely. We certainly would like the opportunity to discuss and work with you on that type of legislation, should you consider it.

We appreciate very much the opportunity to appear. We look upon this committee as our standard bearer in the Senate. We thank you for all your past help and courtesies. We would be happy to answer any questions.

[Material follows:]

sbu
SMALL BUSINESS UNITED
A NATIONAL NETWORK
FOR LEGISLATIVE ACTION

SBANE

Statement
by
Mr. John C. Rennie
President, PACER Systems, Inc.
President, Smaller Business Association of New England
President-elect, Small Business United
87 Second Avenue, Burlington, MA 01803

before the
Subcommittee on Innovation and Technology
of the
Senate Small Business Committee

on

Government Reliance on the Private Sector
(Proposed Revision of OMB Circular A-76)

April 5, 1983

Mr. Chairman and Members of the Subcommittee:

My name is Jack Rennie, President of PACER Systems, a growing aerospace company with offices in six states. I am also President of SBANE and President-Elect of Small Business United of which SBANE is a member. Today I am testifying on behalf of SBU, a coalition of regional, grass roots small business associations covering 37 states and almost 60,000 companies in all industry sectors.

Mr. Chairman, I have a somewhat unusual background compared to most of my colleagues managing small business, in that at one time I was a Naval Officer managing government programs and contracting to industry; and later I formed a company, PACER, which is a supplier of goods and services to the government. This background allows me, I think, to view subjects, such as is the focus of this Hearing, with a reasonably balanced view. Because of this orientation I became actively involved in helping to develop SBANE and SBU positions regarding the "contracting out" issue.

I should add that over the past few months, I have met with numerous representatives of other organizations headquartered here in Washington and elsewhere concerning this issue. These groups represented a broad range of interests and business sizes, national and local. I would like to take this opportunity to thank them all for their cooperation, valuable inputs and understanding.

The reason SBU consulted with these groups, Mr. Chairman, is that we feel that the so-called "contracting-out" issue is of major importance, not just to small business but to industry as a whole...and, indeed, the Country. We wanted to explore the issue at two levels: the government-industry relationship; and then within the industrial sector, the big company-small company situation. These discussions were constructive and have helped all sides to understand the background and issue better and to overcome significant differences in viewpoint.

Overview

The Small Business sector has viewed the history of the implementation of OMB Circular A-76 with a great deal of dissatisfaction. It seems to us that this very important pronouncement of official government policy has been largely treated with disdain by many government agencies...essentially paying a certain amount of diffident attention when it served their purposes, and obfuscating compliance when they wanted to avoid the tougher tasks. This has resulted in two things:

- Over $20 billion of commercial goods and services are being provided each year by government that should be contracted out to industry; and
- Small business cynicism regarding these "pronouncements" by government which are toothless when it comes to enforcement, has been strengthened.

So, SBU is very glad that OMB is again reviewing the Circular; and we hope that this Revision will be more effective and will provide a fair, enforceable mechanism to execute the underlying government policy.

Specific Issues

SBU has submitted extensive comments to OMB regarding the various facets of the Revised Circular. A copy of this letter, if the Committee does not already have one, will be available, if desired.

Today, however, I would like to focus on three specific areas of concern that we feel should be highlighted:

- Policy reenforcement;
- Multi-function or "umbrella" contracting; and
- Enforcement of the Circular

Policy Reenforcement

The original A-76, issue in 1966, declared that it was the broad policy of the government to not compete with, but instead to rely upon the private sector for commercial goods and services. The 1979 revision reiterated that view, but undermined the implementation by introducing the notion of reliance based on the "least costly alternative"; this implicitly changed the policy so that the movement of a commercial service or product to the private sector was dependent on cost comparisons. This change has helped to impair effective compliance because of the capability of civil servants to skew cost factors in favor of the public sector.

The currently proposed revision does not effectively address this underlying policy at all.

The revision should be amended to restate the original A-76 tenet that the general policy of the federal government is not to compete with the private sector for production of needed commercial goods and services. Such a reiteration would clarify and put in a proper context the subject of "cost comparison." It would also serve to reenforce the fact that a "cost comparison" is not a mechanism that implicitly endorses public sector competition with the private sector.

Umbrella Contracting

There is consistent encouragement in the supplement to the Revision to consolidate or "bundle" commercial activities into multi-function contracts. The words leading into Part 1, Chapter 1, paragraph C we feel are somewhat inconsistent with wording elsewhere in the Circular Revision which indicates, in effect, that a fair proportion of contracts to smaller firms is an aim of the policy. Naturally, SBU feels that such an objective is important and should be consistently reflected in the Revised language.

We feel that smaller contracts generally result in increased competition and hence lower cost to the taxpayer. However, we also understand that there are some instances when multi-function contracts may make logical and economic sense. So, a more balanced introduction to this section would, in our view, help lend perspective to the issue. If that introduction were followed by clearly identified, quantifiable stipulations regarding small business participants, the Revision would be considerably strengthened, in our view.

We strongly favor a redraft of Part 1, Chapter 1, Paragraph C (1) to include the following characteristics:

- An introduction with language which does not presuppose that large multi-function contracts are the advantageous route, but rather highlights the possible advantages and disadvantages of this approach;

- Stipulations that would be quantifiable and enforceable regarding participation of smaller firms in this area of procurement. Specifically, we favor the following:

  (1) 30% of all commercial activities contracted out by each agency packaged in smaller contracts and set-aside for small business firms; and

  (2) A requirement for prime contractors to subcontract 50% of the effort under large umbrella contracts to small companies, when the award is made via the formal adversized procedure; and

  (3) A requirement in large, negotiated umbrella contracts for the prime contract bidders to submit a Small Company Subcontracting Plan with their proposal, and the evaluation criteria of such competitions include a significant weighting which would be associated with these plans (ie. awarding "points" for greater small business participation).

There are other features we would also recommend relating to ongoing and minority contracts, and a copy of a proposed redraft of this paragraph of the supplement can be made available to the Committee if it would be useful.

Enforcement

Previous versions of A-76 have not been effectively implemented. We feel that among the principal reasons for this failure are: the lack of clear assignment of responsibility for compliance within the agencies; reliance on what have proven to be weak/ineffective remedial procedures; and a lack of incentives to encourage civil service compliance.

- Responsibility - Compliance with the provisions of the Circular should be made the specific responsibility of an agency official at an Assistant Secretary level; an example of such a person might be the recently designated "Procurement Executives" which each agency was directed to appoint. This person would be the author of the annual compliance report and provide the primary point of contact for Congressional oversight;

- Remedies/Reviews - Under the existing Circular, as well as the proposed revision, review of A-76 cost comparisons is limited to an appeal within the agency. This is inadequate. In order to protect the jobs of agency personnel, all commercial and industrial activities have not always been subjected to cost comparison analyses as required by the circular. Even when a particular commercial or industrial activity has been identified, some agencies have at times blatantly slanted cost comparisons in favor of in-house performance. The Circular should be revised to permit review by the Comptroller General and the courts in the three areas where compliance has been lacking;

  (1) designation of commercial/industrial activities;
  (2) cost comparisons; and
  (3) subcontracting provisions.

  The proposed annual report on compliance is a step in the right direction; but it should be accompanied by a requirement that specific reporting procedures be published by a specific date reasonably soon after adoption of the Revision. Lack of such a provision effectively delayed monitoring of compliance with Public Law 95-507 for more than two years.

With regard to subcontracting, the aim (as I previously stated) should be to ensure fair small business participation. Contracting officers have been asked in the past to terminate large prime contractors for default if they failed to live up to the subcontracting requirements. Experience has shown, however, that contracting officers have little or no concern for "socio-economic" requirements and will not terminate contracts for failure to meet such standards unless they are faced with specific procurement rules by which they are directed to conduct their business.

It has also been suggested that interested small business concerns could enforce the subcontracting requirements through the Government Accounting Office (GAO) bid protests. But, they cannot seek GAO enforcement of subcontracting clauses because GAO bid protests apply only to prime contracts, not subcontracts.

Therefore, our inclinations are to identify some "outside" activity, such as the Small Business Administration, and have that activity be charged with the responsibility of monitoring compliance and have the concomitant power to initiate remedial action. If a satisfactory agency cannot be identified to fill that role, then - because we feel this element must be addressed to make the Circular meaningful - we would consider alternatives such as assigning these responsibilities to the individual contracting authorities, but only if the federal procurement regulations were changed to reflect the specific subcontracting requirements I previously outlined.

o Agency Personnel Compliance - Government employees should be discouraged from evading the OMB circular by expressly making failure to comply grounds for personnel disciplinary action.

In a positive vein, it is recommended that A-76 compliance be identified as a specific responsibility when publishing applicable job descriptions. Compliance should also be a factor in personnel performance reviews and those individuals who have done exemplary work in this area would be rewarded.

Summary

Mr. Chairman, we feel that Revision of the OMB Circular is a golden opportunity to reinforcement the reliance on industry that has been the policy of this Government for two decades...and to make small business' role appropriate, given its overall contributions to the national economy.

We, frankly, would like to see an initiative in Congress to provide legislative enforcement to this Policy, so that the reality of our government's operations match its policy directives more closely.

Thank you for the opportunity to appear today. We look upon this Committee as our standard-bearer in the Senate, and we thank you for all of your past help and courtesies. Naturally, I'll be happy to try to answer any questions you may have.

Senator RUDMAN. Thank you very much, Mr. Rennie. I am sure the committee will be pleased to listen to your views on legislation that might be needed.

Unquestionably, there is a large gap between legislative intent and practices in effect in this whole area, of which I am personally aware of a number just in the past few weeks, particularly in reference to our new Innovation and Technology Act, of course, which went into law last year and which we are still having some difficulties with some parts of the bureaucracy in understanding that the Congress meant exactly what it said.

You answered most of the questions I had for you in your statement.

Mr. Denlinger.

STATEMENT OF STEPHEN W. DENLINGER, PRESIDENT, LATIN AMERICAN MANUFACTURERS ASSOCIATION

Mr. DENLINGER. Thank you very much, Senator Rudman, Senator Gorton. I appreciate this opportunity to share with you some of LAMA's concerns regarding the total base maintenance aspects of OMB Circular A-76.

My name is Stephen Denlinger. I am the president of LAMA, the Latin American Manufacturers Association, a national trade association representing Hispanic manufacturing and high technology firms throughout the United States. Areas of our technologies include castings, sheet metal fabrication, forgings, precision metal fabrication, stampings, metal coating and finishing, plastics, chemicals, electronics, telecommunications, computer sciences, and so forth.

Some of the parts, components, and assemblies that our companies manufacture are in the Moon shot, space shuttle, AWACS, Navy destroyers, the F-16, the F-104 fighter, the L-1011 Tristar, the B-52 bomber, armored personnel carriers, the M-1 tank, nuclear powerplants, sidewinder missiles, stinger missiles, and so forth. To illustrate these technologies, I brought along a sample board of missile cables that one of our companies manufactures in southern California. These are igniter cables for shipboard missiles for the Navy.

I give you this background because our constituency is competent and business oriented. We expect to produce items for the Government on time, at a fair-market price, and to the technical specifications of the Government.

While our emphasis is in manufacturing and highly technical areas, LAMA also represents Hispanic firms involved in janitorial services, security guard services, food services, and other service areas. It is with reference to these latter categories that I direct my testimony this morning.

We at LAMA are alarmed over the trend toward total base maintenance contracting for the following reasons:

One, it may well push small business out of traditional areas of business activity critical to their survival;

Two, it may well seal off some of the key areas available for the minority business community to penetrate the economic system;

Three, it may also result in higher costs to the U.S. taxpayer through the markups that large prime contractors will pass on to the Government for those activities which they elect to subcontract.

I would like to say that I subscribe totally to the points made by my colleague, John Rennie, president-elect, Small Business United. I am certainly delighted to hear his testimony here this morning.

I particularly fear for small minority-owned businesses whose only vehicle for securing such base service contracts has been the SBA program. If these types of contract opportunities are consolidated out of the reach of the SBA 8(a) program through A-76, the SBA will have lost its most vital tool through which to bring qualified minority firms into the economic mainstream.

It is essential to realize that most of the firms we are talking about in these areas—security, food service, janitorial service, and so forth—have a very localized market orientation. They are usually limited to their immediate geographic areas. While a few consolidations may not sound ominous in the overall, such a result could completely wipe out the market base for selected companies of this nature.

This consolidation matter troubles us from another perspective. As a constituency across the country, we are continuously stiff armed out of the high technology areas. Take the area of computer sciences, for instance. Despite the fact that we have numerous highly qualified Hispanic computer science companies in the 8(a) program—for instance, Amex, Computer Technology Associates, CASDE, Infotec, National Systems & Research, and so forth—there is no minority business involvement in the millions upon millions of dollars in computer-support contracting at NORAD. This pattern repeats itself throughout the Government. Take the SBA pilot authority program, for example. Despite projected DOD budgets over the next 5 years ranging up to $2 trillion, DOD was exempted from the pilot 8(a) authority. The point here is that, on the one hand, we are being stiff armed out of the high-technology areas, and at the same time that it appears that we are about to be consolidated out of the low-technology areas.

For the record, I have attached documentation from one of our members in Texas—Cantu Food Services—who is in the process of being consolidated out of its local marketplace. I can assure you that the idea that major corporations might subcontract to his firm for food services is not very encouraging to him. In fact, LAMA's overall experience with the subcontracting provisions of Public Law 95-507 is that, by and large, they are ineffective. Certainly, they are no substitute for the business development support of the SBA 8(a) program.

I recommend that we monitor these case studies developed under A-76 very carefully. We must insure that these cost studies compare and highlight the overhead and profit rates of the major corporations versus small business. We must insure that the so-called cost savings are not being defeated by prime contractors who are marking up their costs and passing on these markups to the Government. We must insure that the cost savings are actual and that the consolidation effort is not being pushed simply as a convenience to the Government in administering fewer contracts.

Personally, I doubt that the so-called economies of scale warrant consolidation. SBA has recently proven that small business is more cost competitive and effective than large business through SBA's spare parts breakout program. In fact, Senator, a number of companies in my association were part of the SBA spare parts breakout program that produced the kinds of cost savings that SBA has reported to this committee.

As the A-76 cost studies proceed, I recommend the following guidelines:

One, that consolidation cost studies be carried out involving small businesses and minority businesses so as to compare their costs against the costs of large prime contractors;

Two, that consolidation cost guidelines be developed and that total base maintenance awards be offered first and exclusively to small and minority businesses providing they can meet those cost guidelines;

Three, that consolidation only take place in circumstances wherein proven cost savings outweigh the interests of small business as well as the minority business development program.

At this juncture, we at LAMA are not even fully aware of the magnitude of DOD's A-76 cost studies. DOD indicates that the studies are being done selectively. What does this mean? We would like to request that the committee secure a full listing of all the military bases and installations wherein the consolidation studies are underway and where they are likely to take place in the future.

We also request that the committee give us an opportunity to more broadly assess the impact of the A-76 on our constituency nationwide in the coming weeks and months and to present further testimony to you in this regard.

Thank you for your time and interest in this important matter.

Senator **Rudman**. Mr. Denlinger, thank you very much.

[Material follows:]

LAMA

TESTIMONY
TO THE
SENATE SELECT COMMITTEE
ON
SMALL BUSINESS

SENATOR WARREN RUDMAN
AND DISTINGUISHED COMMITTEE MEMBERS
April 5, 1983

REGARDING TOTAL BASE MAINTENANCE CONTRACTING
OMB CIRCULAR A-76

PRESENTED BY

LAMA
Latin American Manufacturer Association
325 Pennsylvania Ave., S.E.
Washington, D. C. 20003

Stephen W. Denlinger
President

Senator Rudman and interested members of the Senate Select Committee on Small Business -- Thank you for this opportunity to share with you some of LAMA's concerns regarding the total base maintenance aspects of OMB Circular A-76.

My name is Stephen Denlinger. I am the President of LAMA -- The Latin American Manufactures Association. LAMA is a national trade association representing over 500 Hispanic manufacturing and high technology firms throughout the U.S. Technologies in our membership include: castings, sheet metal fabrication, forgings, precision metal fabrication, stampings, metal coating and finishing, plastics, chemicals, electronics, telecommunications, computer sciences and so forth.

While our emphasis is in manufacturing and highly technical areas, LAMA also represents Hispanic firms in such areas as janitorial services, security guard services, and food services. It is with reference to these latter categories to which my testimony is directed today.

We at LAMA are alarmed over the trend toward total base maintenance contracting for the following reasons:

1. It may well push small business out of traditional and critical areas of business activity;

2. It may well seal off some of the key areas available for the minority business community to penetrate the economic system;

3. It may well result in higher costs to the U.S. taxpayer through the mark-ups that the large prime contractors will pass on to the government for those activities which they elect to subcontract.

I particularly fear for small minority-owned businesses whose only vehicle for securing such base service contracts has been the SBA 8(a) program. If these types of contract opportunities are "consolidated" out of the reach of the SBA 8(a) program through A-76, the SBA will have lost its most vital tool through which to bring qualified minority firms into the economic mainstream.

It is essential to realize that most minority firms in security, food service, and janitorial services have a local market orientation, usually limited to their immediate geographic areas. While a few consolidations may not sound ominous in the overall, such a result could completely wipe out the market base for selected 8(a) contractors.

This consolidation matter is most troublesome from another perspective. As a constituency, we are continuously stiff-armed out the high tech areas. Take the area of computer sciences for instance; despite the fact that we have several highly qualified Hispanic computer science companies in the 8(a) program (e.g., Amex, Computer Technology Associates, CASDE, Infotec, and National Systems and Research), there is no minority business involvement in the millions upon millions of dollars in computer support contracting at NORAD. This pattern repeats itself throughout government. Look at the SBA Pilot 8(a) Authority; despite projected DOD budgets over the next 5 years ranging from $1.6 to $2 trillion, DOD was exempted from the Pilot 8(a) Authority. The point is that, on the one hand, we are being stiff-armed out of the high tech areas, and now, it appears that we are about to be consolidated out of the low tech service areas.

For the record, I have attached documentation from one of our members in Texas -- Cantu Food Services -- who is in the process of being consolidated out of his marketplace. I can assure you that the idea that major corporations might subcontract to his firm for food services is not encouraging to him. LAMA's overall experience with the subcontracting provisions of 95-507 is that they are ineffective - certainly no substitute for business development support of the SBA 8(a) program.

Gentlemen, I recommend that we monitor the case studies developed under A-76 very carefully. We must ensure that these cost studies compare and highlight the overhead and profit rates of large vs. small business. We must ensure that the "cost savings" are not being defeated by primes marking up the cost of their subcontracts and passing on the mark-ups to the government. We must ensure that cost savings are actual, and that the consolidation effort is not being pushed simply for the convenience to the government in administering fewer contracts. Personally, I doubt that the so called "economies of scale" warrant consolidation. SBA has recently proven that small business is more cost competitive than large business through SBA's Spare Parts Breakout Program.

As the A-76 cost study proceeds, I recommend the following guidelines:

1. That consolidation cost studies involving small businesses and minority business (including 8(a)) be carried out to compare their costs against the costs of large prime contractors;
2. That consolidation cost guidelines be developed and that total base maintenance awards be offered first and exclusively to small and minority businesses providing they can meet the cost guidelines;
3. That consolidation only take place in circumstances wherein proven cost savings outweigh the interests of small business as well as the minority business development program.

At this juncture, we at LAMA are not even fully aware of the magnitude of DOD's A-76 cost studies. DOD indicates the studies are being done selectively. We request that the Committee secure a full listing of all the military bases/installations wherein the consolidation studies are underway and where they will be conducted in the future. We also request that the Committee give us an opportunity to more broadly assess the impact of the A-76 on our constituency nationwide in the coming weeks and months, and to present further testimony to you in this regard. Thank you for your time and interest in this important matter.

CANTU SERVICES, INC.

P.O. BOX 322 BURKBURNETT, TEXAS 76354 817-569-1860 817-569-4111

17 February, 1983

Mrs. Luz Arooz Hopewell
Latin American Manufacturers Association
325 Pennsylvania Ave.
Washington, D.C. 20003

Re: Total Base Maintenance and
Fort Sill, OK

Dear Luz:

In regards to our telephone conversation, I am sending you the attached correspondence pertaining to the Total Base Maintenance. Maybe with Mr. Denlingers influence this can be stopped.

I also would like to express our deep and sincere appreciation for the assistance Lama, and in particular you, Luz, for the help you provided in the certification of Cantu Services, Inc. into the 8(a) Program. We will continue to depend on your assistance in order to receive additional contract support.

Sincerely yours,

Ricardo M. Cantu
President

RMC/vml
Attachment: Letter to Honorable John Tower
Letter from Colonel William G. Gustafson
Letter from Richard H. Sewing
Letter from R. F. McDermott
Letter from Lloyd Bentsen
Letter from E. C. Coffey
Letter to Lloyd Bentsen

CANTU SERVICES

P.O. BOX 322 BURKBURNETT, TEXAS 76354 817-569-1860

April 7, 1982

Senator Lloyd Bentsen, Jr.
Room 240, Russell Office Bldg.
Washington, D.C. 20510

Dear Senator Bentsen:

We have recently been advised that the Department of the Army has made a decision to change the manner in which it procures service contracts for Army installations nationwide. As you are probably aware, up to this time, the Army in most cases has procured such contracts on an individual basis. For example, the Army has issued separate contracts for janitorial service contracts, guard service contracts and food service contracts on any particular base. This approach has fostered a good deal of small business participation throughout the nation, and there are many competent business concerns currently depending on the Army and other government contracts for their livelihood.

Now, however, it appears that the Army is changing its approach by going to total base maintenance contracts (i.e., Ft. Leonardwood, Missouri; Redstone Arsenal, Alabama). Thus, the Army intends now to award one contract to one company whose responsibility it will be to perform all the services required on a particular installation. Needless to say, the scope of duties for such a contractor is so vast and the financial capabilities of that contractor must be so enormous that the day of the small businessman clearly has come to an end. If this transition is permitted to take place, only large businesses will exist; small businesses that have thrived up to this point will die.

We believe that this is an extremely disturbing development, and we would hope that you would agree with us. Accordingly, I am writing to request your assistance in this matter to ascertain the current status and, if it appears that our information is correct, to intervene on our behalf and on behalf of all small businesses to prevent this transition from taking place.

Congress has recognized that small business is the "backbone" of our nation, and it would be disastrous in this economic climate to pull the rug out from under small business at this time. We certainly would appreciate any help you would be willing to give, and if you should desire additional information in order to provide effective assistance, please do not hesitate to contact me.

Thank you for your interest and cooperation.

Very truly yours,

CANTU SERVICES

Ricardo M. Cantu
President

RMC/th

cc: Senator John Tower
Rep. Jack Hightower
President R. Reagan
Victor M. Riveira, National Director
Minority Business Development Agency
James Sanders, S.B.A.
Reynaldo Lopez, Director, S.B.A.-Dallas
Mr. E. C. Coffey, S.B.A.-Dallas
Mr. Timothy Sullivan, Attorney at Law

LLOYD BENTSEN
TEXAS

United States Senate
WASHINGTON, D.C. 20510

April 19, 1982

Mr. Ricardo M. Cantu
President
Cantu Services
P.O. Box 322
Burkburnett, Texas 76354

Dear Mr. Cantu:

Thank you for your recent correspondence.

I share your concern about the Army's recent policy to grant base maintenance contracts to large companies as opposed to small businesses. I have contacted Army officials to express my concern about this matter. They informed me that the policy decision to grant total base base maintenance contracts was based on substantial reductions in service costs. Although a certain percentage of Army contracts must be awarded to small businesses, these contracts are not limited to base services.

I have been a long time supportor of small business. Recognizing that small business accounts for almost half of our GNP and provides over 87 percent of all new private sector jobs, I am keenly aware of its effect on the performance of our national economy. Let me assure you that I will carefully monitor the implementation of the Army's new total base service contracts, and refer to your thoughts should legislation addressing this matter come before the Senate.

Again, I appreciate your taking the time to contact me.

Sincerely,

Lloyd Bentsen

Lloyd Bentsen

SBA U.S. Small Business Administration Washington, DC 20416

APR 26 1982

Mr. Ricardo Cantu
President
Cantu Services
P.O. Box 322
Burkburnett, Texas 76354

Dear Mr. Cantu:

This is in further response to your letter of April 7, 1982 and our interim response of April 19, 1982. Your letter expressed concern over the Army's consolidation of individual service contracts into "total base maintenance contracts." You further stated that "if this transition is permitted to take place only large businesses will exist; small businesses that have thrived up to this point will die." Your central point seems to be: On large consolidated services contracts, like the Fort Leonard Wood and Redstone Arsenal examples cited in your letter, small businesses are effectively eliminated from the competitive process. We agree with you.

In connection with the above, by letter dated January 20, 1982, we informed the Department of Defense of our concern over DOD's implementation of the Office of Management and Budget Circular A-76 (contracting out). We told DOD we were particularly alarmed over the programmed proliferation of single base maintenance service contracts. Several examples were given including Redstone Arsenal. Moreover, DOD was informed that if consolidation of services contracts continued at the current pace and size, small business participation could be essentially eliminated in many Federal prime contracting programs. Finally, we asked DOD to reexamine programmed consolidations for Fiscal Years 1982 through 1984. The purpose of this reexamination would be to give SBA an opportunity to discuss possible ways to help minimize the adverse effect on the continued stability of vast numbers of small business firms who are now doing or desire to do business with the Federal Government.

We are pleased to advise you that DOD has responded favorably to our request. Shortly, we anticipate discussions with DOD, with particular emphasis on current and future programmed consolidations. Finally, although the Redstone Arsenal consolidation is proceeding, we have been informed that the Fort Leonard Wood base maintenance contract has been indefinitely postponed.

We thank you for your concern. We also hope the above comments show that we too recognize the adverse effects of consolidated base services contracts on small businesses, and that we are attempting to help resolve the many problems stated in your letter.

Sincerely,

Paul R. Browne
Actg
R. P. McDermott
Associate Administrator for
Procurement and Technology Assistance

653-6599
6635

DEPARTMENT OF THE ARMY
OFFICE OF THE SECRETARY OF THE ARMY
WASHINGTON, DC 20310

OFFICE, CHIEF OF
GISLATIVE LIAISON

21 MAY 1982

Honorable John Tower
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

This is in reponse to your inquiry on behalf of your constituent Ricardo M. Cantu concerning his perception that the Army is adopting a policy of awarding a single contract for all support services at each installation, and his concern about the resulting effect on small business firms.

The Army is required by Office of Management and Budget (OMB) Circular A-76, and DOD implementing directives, to review all Government operated commercial activities prior to the end of fiscal year 1985 for possible conversion to contractor performance. The decision to convert to contract or to retain an activity in-house will be based on the relative cost of the two methods of performance. The Army is also a strong supporter of the Small and Disadvantaged Business Program.

In order to achieve the economies of scale that can be obtained through consolidation of functions, the Army has, in some instances, grouped functions into large packages for cost study. This includes some total installation support packages. We have also studied single functions and functions grouped in small packages. Included in cost studies scheduled through September 30, 1983 are a significant number of single activities, as well as small and medium sized packages, in which small business can compete as prime contractors. These will be set-aside for small business. Based on our experience, we believe that it is possible to achieve the objectives of both the CA and Small Business Programs while still grouping commercial activities into economically and operationally efficient packages. Grouping of functions also contributes to completing all required cost studies by the end of September 1985.

For larger cost studies involving unrestricted solicitations, all possible steps are being taken to ensure that a fair share of the dollar value of contracts is awarded to small business firms as subcontracts. Solicitations will include clauses requiring bidders to submit plans for subcontracting, with a percentage of contract award recommended. Army experience with existing large package CA contracts is that most prime contractors are voluntarily subcontracting a significant share of work to small businesses. At Fort Gordon, for example, out of an annual contract of $24 million, over $9 million is subcontracted to small business firms.

Please be assured that the Army will continue to actively support the Small and Disadvantaged Business Program. We believe we can bring more small business firms into the economic mainstream, both as prime and subcontractors, if we continue with a strong and viable Commercial Activities Program.

We hope this will be of assistance to you.

Sincerely,

WILLIAM H. ROCHE
Colonel, GS
Chief, Plans and
Operations Division

Senator RUDMAN. You also answered a number of the questions that I had ready for you in your statement. You anticipated most of our concerns. We share the concerns that both you and Mr. Rennie have expressed, and I can assure you that we are going to look into this whole question of cost comparison and consolidation very closely.

Senator Gorton, do you have any questions?

Senator GORTON. No, Mr. Chairman.

Senator RUDMAN. I would like to thank you both very much.

I would like to ask our final panel to come forward: Mr. Ernett Altheimer and Mr. William D. Russell.

Senator Gorton, I will yield to you for a moment if you would like to welcome one of your constituents.

Senator GORTON. I certainly would.

I am delighted to see you here and I came especially to hear your testimony on an issue which is of vital importance not only to you, but to small businesses across the country.

STATEMENT OF ERNETT ALTHEIMER, PRESIDENT, SPHERE, INC., FEDERAL WAY, WASH.

Mr. ALTHEIMER. Mr. Chairman, and to my own Senator Gorton, I am Ernett Altheimer of Sphere from the Seattle-Tacoma area.

As a principal of Sphere, I have been involved in Government contracting since 1975. We are a small business, 100 percent minority-owned business. We have been fortunate in securing contract services work from several Government agencies as a small business, including the Air Force, GSA, the Army Corps of Engineers, and the Federal Aviation Administration.

Much of our development and success as a small business is attributable to the opportunities gained in subcontracting from a large business concern at several large military bases, including but not limited to: Trident Submarine Base, Bangor, Wash.; Sacramento Army Depot; and the Naval Weapons Center, China Lake, Calif. The majority of our work has been the result of these subcontracting opportunities provided by the large contractor performing under the umbrella installation support concept.

We believe that OMB A-76 circular, properly administered, can and will have a positive effect on Government contracting opportunities for small and small disadvantaged businesses. We also believe that just simply reclassifying a particular contract as a set-aside for small or small disadvantaged firms does not provide or expand contracting opportunities for small businesses.

It has been our experience that when jobs are reclassified from large to small businesses, the Government never reduces the bonding requirements or takes any allowable action to ease the financial impact on the small firm. In almost all cases, bid bonds are increased and performance bonds are applied. Small businesses are not, as they could be, paid twice monthly, as large business concerns are.

We view certain aspects of the proposed changes as cosmetic in nature and will not have any impact on the actual increase of small minority-owned businesses now performing Government contracting. If anything, opportunities may decrease.

Our most recent experience was a project advertised as a 100-percent setaside for small business at Mechanicsburg, Pa. Our proposal was technically superior and lowest in cost. We beat all competitors, including the Government, in cost comparison. However, the job required a performance bond in the range of $5 million. This requirement effectively eliminated our firm from acquiring the contract.

Subcontracting opportunities from large prime contractors allow small and small disadvantaged firms to participate on a substantial basis without the major financial burdens required for large dollar commitments in facilities, equipment, materials, capital, and bonding. Subcontracting provides the opportunity for a close working relationship with an experienced large prime contractor who can furnish valuable hands-on experience, training, and support in the proper performance and pricing of contract work. In a direct contract with the Government, the Government cannot provide this support.

An umbrella contractor, having a vested interest in the success of the subcontractor, can step in when and where needed and before the problem arises. When a small business is dealing with the Government, the problems often surface only after it is too late to remedy them.

The benefits of establishing this type of subcontracting relationship can often offer a small business the reasonable expectation of a long-term relationship. This includes opportunities to be included in proposals for new work in new geographical areas where the cost and lack of familiarity would prohibit bidding if the small business were acting on its own.

In conclusion, we as a small minority business have benefited greatly from the opportunites provided by a large prime contractor managing umbrella contracts. The assistance that we have received over the years has taught us a great deal about base operation and maintenance contracting. We are certain we would not have been as successful without that assistance. We urge you to view realistically the benefits of subcontracting for all small and small minority firms.

It is our contention that the proposed changes in umbrella contracting policy could jeopardize the future opportunities for small businesses, minorities in particular.

Thank you very much for this opportunity to report our findings and our feelings on this and for your consideration in hearing us.

Senator RUDMAN. Thank you very much, Mr. Altheimer.

[Material follows:]

STATEMENT BY
ERNETT ALTHEIMER, PRESIDENT, SPHERE
BEFORE SENATE SMALL BUSINESS COMMITTEE
APRIL 5, 1983

The principals of Sphere have been involved in government contracting since 1975. We are a small, 100% minority owned business. We have been fortunate in securing contract services work from several government agencies as a small business, including the Air Force, G.S.A., Army Corps of Engineers and the Federal Aviation Administration. Much of our development as a successful small business is attributable to the opportunities gained in subcontracting from a large business at several large military bases, including: Trident Submarine Base, Bangor, Washington; Sacramento Army Depot; and the Naval Weapons Center, China Lake, California. The majority of our work has been the result of these subcontracting opportunities provided by a large contractor performing under the umbrella installation support concept.

We believe that OMB A-76 Circular, if properly administered, can and will have a positive affect on government contracting opportunities for small and small disadvantaged businesses. We also believe that just simply reclassifying a particular job as a set-aside for small and small disadvantaged firms does not provide or expand contracting opportunities for small firms.

It has been our experience that when jobs are reclassified from large to small businesses, the government almost never reduces the bonding requirements, or take any allowable action to ease the

the financial impact on the small firm. In almost all cases, bid bonds are increased and performance bonds are applied. Small businesses are not, as they could be, paid on twice-per-month basis, as are large business concerns.

We view certain aspects of the proposed changes as cosmetic in nature and will not have any impact on the actual increase of small minority owned businesses now performing government contracting. If anything, opportunities will be decreased.

Our most recent experience was a project advertised as a 100% set-aside for small business at Mechanicsburg, Pennsylvania. Our proposal was technically superior, and lowest in cost; we beat all competitors including the government, in cost comparison. However, the job required a performance bond in the range of 5 million dollars. This requirement effectively eliminated our firm from acquiring the contract.

Subcontracting from large prime contractors allows small and small disadvantaged firms to participate on a substantial basis without the major financial burdens required for large dollar commitments in facilities, equipment, materials, capital, and bonding. Subcontracting provides the opportunity for a close working relationship with an experienced large prime contractor who can furnish valuable on-hands experience, training, and support in the proper performance and pricing of contract work. In a direct contract with the government, the government cannot provide this support.

An umbrella contractor, having a vested interest in the success of the subcontractor, can step in when and where needed before the problem arises. When a small business is dealing with the government, the problems often surface only after it is too late to remedy them.

The benefits of establishing this type of subcontracting relationship can often offer a small business the reasonable expectation of a long term relationship. This includes opportunities to be included in proposals for new work in new geographical areas where the cost and lack of familiarity would prohibit bidding if the small business were acting on his own.

In conclusion, we as a small minority business have benefited greatly from the opportunities provided by a large prime contractor managing umbrella contracts. The assistance that we have received over the years has taught us a great deal about base operation and maintenance contracting. We are certain we would not have been as successful without that assistance. We urge you to view realistically the benefits of subcontracting for small and small minority firms.

It is our contention that the proposed changes in umbrella contracting policy could jeopardize future opportunities for small businesses, minorities in particular.

Senator **Rudman**. I would only say that I expect you will probably agree with the other witnesses who said that their concern is that if these umbrella contracts in some way start to exclude the ability of small business to participate, then of course you would have a real problem.

Mr. **Altheimer**. I disagree in some aspects of that, Senator, because my experience has been if you beat the brush--and I have beat it from Alaska to Cameroon and into Saudia Arabia, and I have acquired jobs in all those places—we produce food for the U.S. Government, not as a small contractor but just as a contractor in the MRE program for rations. We have a total of eight military bases under our control now, and we also subcontract with major firms on four bases.

My contention has always been that if you give an individual a bag of rice, he will be back for another one next year, but if you teach him how to achieve and grow the rice and cultivate it, he will make his own.

Thank you.

Senator **Rudman**. Senator Gorton?

Senator **Gorton**. I think you have summarized it very, very well.

I would just like to go on and ask the question: How frequently have you been the subcontractor to a large contractor under an umbrella contract? How often have you experienced directly contracting with the Federal Government itself?

Mr. **Altheimer**. The majority of my contracts have been with the Federal Government. The larger dollar amounts, excluding one contract—we phased in Kings Bay, Ga., a total of 18 functions. We have participated on six military bases with large contractors. We have bid competitively, Senator Gorton, against other small and disadvantaged firms for that business within that umbrella contract.

Senator **Gorton**. Essentially, you have worked both ways—

Mr. **Altheimer**. Yes, sir.

Senator **Gorton** [continuing]. With the larger companies under umbrella contracts and directly with the Government itself. Therefore, you have an experience in each way of doing business.

Mr. **Altheimer**. Yes, sir.

Senator **Rudman**. We will move on now to Mr. William Russell, from the Business Alliance of Government Competition.

Welcome, Mr. Russell.

STATEMENT OF WILLIAM D. RUSSELL, CHAIRMAN OF THE STEERING COMMITTEE FOR BUSINESS ALLIANCE OF GOVERNMENT COMPETITION, WASHINGTON, D.C., ACCOMPANIED BY RALPH MARTIN, PRESIDENT, RAYTHEON SERVICE CO., BURLINGTON, MASS.

Mr. **Russell**. Thank you very much, Mr. Chairman and Senator Gorton.

I am William D. Russell, chairman of the Steering Committee of the Business Alliance on Government Competition. This alliance is a fairly new coalition of national trade and business associations, representing small and large businesses, with a common interest in the Government's longstanding policy of reliance on the private sector for goods and services.

Accompanying me is Mr. Ralph Martin, president of Raytheon Service Co., of Burlington, Mass., who will be available to answer questions from the committee.

We had planned to be accompanied, also, by the owner of a small business which is both a prime and subcontractor under various Government contracts, to provide a broad scope of industry to respond to any questions the committee might have. However, we subsequently learned that the committee had invited Mr. Altheimer, whose background and company experience is quite similar to the other businessman had planned on including. Consequently, we decided he could save himself a great deal of time and expense for the trip, and that Mr. Altheimer could respond extremely well in that area.

We have been concerned for some time over the basic problem that has been highlighted several times in the hearing today: The Government's failure to properly implement its longstanding policy of reliance on the private sector. As we look back through history, we see a policy dating back to 1955 that it philosophically is not the role of Government to compete with the private sector in providing commercial products and services. It is the role of Government to govern, and the role of the private sector to provide the goods and services that are needed, both by the private sector and by governments at all levels, in carrying out their various missions and activities.

The most recent statistics that we have seen from the Office of Management and Budget indicate that Federal agencies have reported that they are expending over $20 billion a year to provide products and services that could be obtained from commercial sources. We think it is appalling that there should be that level of Government commercial activity today, in competition with the private sector, 28 years after it was formally declared to be the policy of the Government to rely on the private sector.

We have, over the years, closely followed the development of executive directives on this particular subject: the original Bureau of the Budget bulletin in 1955; and OMB circular A-76, first issued in 1966, revised extensively in 1967, 1979, and now under consideration for further revision.

We feel that the 1979 revision, which shifted the emphasis of this OMB circular from relying on the private sector because it is the right thing to do, to a very pragmatic one of relying on the private sector only when it is demonstrated to be the more economical course for Government, was unfortunate in a philosophical respect. However, we felt that it offered an opportunity, if they were really serious this time about implementation and actually using in the most cost-effective alternative, for industry to equitably compete for that extensive volume of Government commercial activity.

Our expectations have not been justified by experience during the past 3 or 4 years. We have found, as indicated by prior witnesses here today, that even when the Government does decide to conduct a comparative cost analysis of the performance of a particular function, the conduct of that cost study is frequently slanted in such a way as to favor continued operation of the Government activity and to discriminate against the possibility of competitive contract performance.

We feel that some of the changes now being proposed in OMB circular A-76 will correct defects and deficiencies in the current circular and its implementing guidelines that have contributed to miscarriages of proper implementation. Generally, our participating associations in the Business Alliance support the proposed changes to the circular, although we have urged more effective implementation, as has also been indicated here today.

In the specific area of umbrella contracts, we find that the controversy that has developed over the proper role of small business versus large business, as compared to in-house performance, has impeded effective implementation of the policy, particularly in the Department of Defense. It has been rather obvious that those in Government who are attempting to perpetuate the extensive Government commercial activity that exists today have exploited this issue, and have used this controversy to further postpone implementation and to influence the outcome of cost studies that have been conducted in the Department of Defense.

We are extremely anxious to see this controversy resolved, and we feel that it is essential that it be done quickly in order to permit further implementation effort of this policy within DOD and other executive agencies.

Consequently, we have worked, as Jack Rennie indicated earlier, with Small Business United and other associations, to develop a broad industry consensus on this issue that would facilitate resolution and promote more effective guidance from OMB and the Department of Defense for implementation of the policy.

Senator RUDMAN. Have you reached such an agreement or accommodation?

Mr. RUSSELL. I think to a considerable extent we have, Mr. Chairman. I think, based on the comments that Mr. Rennie made earlier, representing a very broad spectrum of the small business community through SBU, and the comments that we have to offer here today, we have substantial agreement. We agree that there should not be any effort to make the implementation of circular A-76 a 100 percent small business set-aside program. We also agree that it should not be a 100 percent large business program through consolidation of all activities into large packages.

What we feel is appropriate is a balanced approach, which offers a reasonable percentage of those activities that are going to be studied under the A-76 cost procedures in small packages that can serve as a prime contract opportunity for small and small disadvantaged businesses. In other cases, where it would serve the purposes of military readiness, operational considerations, economy and efficiency a large umbrella contract, with significant enforceable provisions for small business participation, is an effective approach.

As Mr. Altheimer pointed out earlier, an umbrella contract can be effective in several ways. It can assist a developing small business company by providing support and protection; financial support and management support from a large umbrella contractor while they are in a developing stage. In some cases, we feel the prime contractor can do that more effectively than the Small Business Administration has been able to do it under prime small business contracts.

Of course, we recognize, also, that there are many situations where it is quite suitable for business to be reserved for prime contracts with qualified small business firms and small disadvantaged business firms.

We think that overall there needs to be a balance and that, generally speaking, the approach that has been proposed in the revision to OMB circular A-76 represents such a compromise. That approach, as exemplified by the Army's fiscal year 1982 and fiscal year 1983 review schedules, calls for approximately one-third of the activity that is going to be studied to be done in small packages that offer prime opportunities for small business and small disadvantaged business. The remaining activity when appropriate and justified by the agency, can be grouped into large packages with specific caveats, spelled out in testimony earlier by OMB, to assure adequate small business participation.

Senator RUDMAN. I take it that you do not believe that any of the proposed regulations need to be changed to assure that there is adequate small business participation?

Mr. RUSSELL. The major concern that has been raised over that point, Mr. Chairman, is how do we insure enforcement of provisions that are put in that OMB circular. As you know, industry has reported to this committee and to other committees of the Congress our rather disappointing experience with the implementation of circular A-76; the agencies' failure to conduct cost studies and to convert activities to contract when shown to be more economical. Mr. Denlinger earlier referred to his disappointment over the implementation of Public Law 95-507 subcontracting requirements.

I think what we have to recognize is that implementation of any policy in our very large and complex Government is difficult. I would like to add that I spent 5 years in OMB, rewriting circular A-76 and working on its implementation, so I have some experience in trying to get things accomplished in the executive branch.

Senator RUDMAN. It is not easy.

Mr. RUSSELL. We have an imperfect management system in Government. We have a decentralized management system, to the point that it is not a simple matter of issuing an OMB circular or a Presidential Executive order or even passing a law and insuring that the desired result is going to occur. There is no absolutely guaranteed, fool-proof way to assure that a particular policy or practice or procedure is going to be implemented.

The most that we can do is to try to use the approach which offers the best opportunity for implementation. In looking at the various mechanisms that are available in Government, we feel that the procurement process itself is one of the most disciplined procedures that we have in Government.

Through a fairly extensive centralized control, by the Defense Acquisition Regulations in the Department of Defense and the Federal Procurement Regulations for civil agencies, which are being consolidated into the new uniform Federal Acquisition Regulation, we have procedures that can give us more effective implementation than any other management device available. That is why the Alliance is recommending that the enforcement of the specific provisions that would go into OMB Circular A-76 be integrated into the procurement process by placing those requirements in the new consolidated Federal Acquisition Regulation as it is issued, insuring that appropriate provisions are placed in each solicitation, in each contract that results from such an action, and then made a legally enforceable part of the contract.

To further provide some oversight for that process, we have recommended that the procurement executive for each agency, designated in accordance with Executive Order 12352 on the uniform procurement system, be specifically identified as the responsible official for assuring compliance with those requirements.

We feel that, within our imperfect Government management system, this is probably the best approach to achieve effective implementation of those provisions.

Senator RUDMAN. Well, thank you very much, Mr. Russell.

[Material follows:]

Business Alliance
On Government Competition

1615 H Street, N.W.
Washington, D.C. 20062
202/463-5500

STATEMENT
on
UMBRELLA CONTRACTING
before
SENATE SMALL BUSINESS COMMITTEE
for the
BUSINESS ALLIANCE ON GOVERNMENT COMPETITION
by
William D. Russell
April 5, 1983

I am William D. Russell, Chairman of the Steering Committee of the Business Alliance on Government Competition (the Alliance).

The Alliance is a coalition of national trade and business associations, representing small and large businesses, with a common interest in the Government's longstanding policy of reliance on the private sector for goods and services. Accompanying me is Mr. Ralph Martin, President of Raytheon Service Company, of Burlington, Massachusetts, who will be available to answer questions from the committee.

We had intended to have with us Mr. Dinsimore Robinson, a small business prime and subcontractor from Huntsville, Alabama but after learning of the Committee's invitation to Mr. Althimer of Sphere, Inc. from Seattle, it was decided Mr. Althimer's testimony would be from much the same experience.

We appreciate the opportunity to appear before this Committee and express our views on this vital issue and how the policy it involves can be implemented with proper consideration of all segments of the business community.

The Alliance is a newly formed coalition, which has its origin in our collective frustration over the Government's failure to properly implement the policy which we believe is integral to a democratic society with a free enterprise economic system. The six organizations which are represented on the Alliance steering committee -- the Aerospace Industries Association, the American Consulting Engineers Council, the U.S. Chamber of Commerce, the Electronic Industries Association, the National Council of Technical Service Industries, and the Professional Services Council--reflect, through their combinations of small and large member firms, the breadth of concern on this issue in the American business community.

The Alliance works closely with the Committee on Contracting Out (which I also chair), an even broader segment of American business that is united in support of the policy of Government reliance on the private sector. A list of organizations participating in the Committee is attached to this statement.

GENERAL PERSPECTIVE

It is our belief that any viable national policy must be consistent with the traditions and values of our society, and that there must be demonstrated benefits from that policy. For over 200 years, the United States has developed and prospered under a political and economic system that provides clearly identified roles for Government and the private sector.

It is the proper role of the Federal Government to govern -- to provide those things which the citizens cannot provide for themselves: setting national priorities and objectives, handling foreign relations, providing for the common defense, and regulating affairs involving more than one state. It is the proper role of the private sector to provide the goods and services needed by the citizens, and also by Governments at all levels, in carrying out their various missions.

When this system has been permitted to work, we feel it has worked well. The private sector has been innovative and resourceful in providing the commercial products and services that have raised our standard of living to one which is envied throughout the world. It has developed information systems, breakthroughs in medical science, transportation and communications systems, and given us defense systems that have made America the technological leader in the world.

However, we are faced today with a dichotomy between the demonstrated accomplishments of industry, and Government's refusal to make more extensive use of those versatile resources. According to the latest information from the Office of Management and Budget (OMB), executive branch agencies have reported that they are expending more than $20 billion annually to provide products and services that are available from commercial sources. While we feel that this figure is grossly understated, it is appalling that this level of Government commercial activity, in competition with the private sector, still exists almost 30 years after it was formally declared to be the policy of the Government to rely on the private sector!

OMB CIRCULAR A-76

The Government's general policy of reliance on the private sector was first promulgated in a formal directive, a Bureau of the Budget (BoB) bulletin, in 1955, and has been endorsed by every administration since that time. It was placed in a permanent BOB (now OMB) Circular and announced by President Johnson in 1966. That directive, Circular A-76, was extensively revised in 1979, and given strong support by the Carter Administration. The general policy has been endorsed by the Reagan Administration, and a proposal for further revision was recently published for comment.

Needless to say, industry has always supported the general policy and has advocated effective implementation of these executive directives, although 28 years of policy direction has gone largely unheeded in most executive agencies. We applauded the implementation efforts in the Department of Defense (DoD) in the late sixties, which were stimulated by the budget crunch during the Vietnam conflict, and the innovative techniques developed in DOD which were later incorporated into Circular A-76.

The 1979 version of the Circular adopted the "firm bid" cost comparison, originated by the Air Force, and integrated cost comparisons into the procurement process. Industry endorsed this change, although reluctantly. We realized that this emphasis on relative cost abandoned the policy of reliance on the private sector as a basis for converting Government activities to contract performance. We did support the change, however, in the expectation that there would be an opportunity to compete, on an equitable cost basis, for the commercial type work being performed by Government agencies. The comprehensive Cost Comparison Handbook issued in 1979 promised valid comparisons between the relative costs of Government and contract performance, and we were confident that any equitable comparison would normally show competitive contract performance to be more economical.

Our high expectations for improved implementation of Circular A-76 have not been realized during the last three years. In most agencies, there has been some lip service, but no effective action, to comply with the executive direction. When cost comparisons have been conducted, it has been under conditions strongly biased against contract performance -- solicitations issued to determine contract cost appear designed to discourage or inflate the bids submitted, inappropriate costs have been charged against contract performance, and appeals of decisions to retain in-house performance have not been properly considered. When there have been any significant actions in an agency to convert activities to contract performance, shown to be more economical despite the handicaps in the procedure, there have been arbitrary moratoriums enacted by Congress to block any further progress in that agency.

For these reasons, we welcome the interest of the Congress in looking into this issue. We believe that this Committee will support a program which promotes economy, efficiency and effectiveness in Government and which, at the same time, has such a great potential for increasing business opportunities for small and large firms. We feel that it has been demonstrated that the Commercial Activities Program in DoD, and implementation of

Circular A-76 by civil agencies, contributes significantly to increased efficiency without reducing programs or jeopardizing military readiness.

THE UMBRELLA CONTRACT ISSUE

The Alliance and our many affiliated organizations share this Committee's concern that Government reliance on the private sector be accomplished in a manner that assures satisfactory performance, contributes to efficiency in Government operations, and is consistent with the policy of ensuring that a proper share of Government business goes to small business firms. Those of us in the Alliance are fully aware of the vital role small business plays in our nation's industrial capability. We seek nothing less for small business than the required fair proportion of government contracts which small business concerns are promised in P.L. 85-536, The Small Business Act, as amended.

We in the Alliance are painfully aware of the controversy that has resulted from DOD efforts to maximize economy and efficiency in their Commercial Activities Program, by consolidation of many support functions at military bases into a single work statement for cost comparison and potential contract award. By their very magnitude, these "umbrella" cost studies have often precluded small business participation as a prime contractor.

In the past few months, we have worked diligently within Industry to arrive at a consensus on an optimal approach for executive agencies in reviewing the many thousands of commercial activities still being performed by Government employees. Recognizing the advantages of the "umbrella" approach, in some cases, in expediting scheduled cost reviews and simplifying the administration of base support contracts, we also recognize the essentiality of assuring a proper role for small business. We have reached agreement that there must be a balanced approach which provides both prime and subcontract opportunities for small and small disadvantaged firms. We believe this balance will work to the advantage of all interested parties, including the often forgotten taxpayer.

We feel that it is vitally important for this controversy to be resolved as expeditiously as possible so that implementation of OMB Circular A-76 can proceed within the Department of Defense and the other agencies. It is clear that this issue is being exploited by those who seek to perpetuate the Government's extensive commercial operations, to the detriment of small business as well as the entire national economy. The Alliance has concluded that a reasonable compromise on this issue is feasible. We believe such a result would serve as a basis for revised policy guidance from OMB and improved implementation instructions within DOD.

We believe each agency, in reviewing its inventory of commercial activities which are subject to examination under the provisions of Circular A-76, and scheduling a comparative cost analysis, should ensure that a fair proportion of its commercial activity is reviewed in small packages, generally involving less than 100 positions, to provide prime contract opportunities for small and small disadvantaged business firms. For example, the FY-82 and FY-83 review schedules prepared by the Department of the Army reserved approximately one third of the number of positions under study for potential small business prime contracts.

Where consolidation of the remaining activities into packages, related by type of work or geographical location, would contribute to economy and efficiency (in both the cost study and subsequent performance), or enhance military readiness, such consolidations should provide assurance of adequate small business participation in a subcontract role.

The proposed changes to OMB Circular A-76 (published for comment on January 12, 1983) offer criteria in this area which we consider to be reasonable. In those cases where the procurement action would be a negotiated procurement, all bidders would be required to submit their small and small disadvantaged business subcontracting plans as part of their proposal, and points would be awarded in the source evaluation process, based on the extent and feasibility of these subcontracting plans. This would provide a strong incentive for competitors to propose maximum feasible subcontract performance. The subcontracting plan of any successful competitor would be incorporated into the resultant contract, and compliance would be a mandatory element of contract performance.

We are aware that questions have been raised concerning the authority of The Office of Federal Procurement Policy (OFPP) to require submission of subcontracting plans by all competitors in their initial proposal submissions. On the advice of competent counsel, after careful review of pertinent statutes, we are confident that such a requirement is well within the authority of the Administrator of OFPP under the Federal Procurement Policy Act (P.L. 96-83). The fact that Congress did not elect, in P.L. 95-507, Amendments to the Small Business Act, to require advance submission of subcontracting plans in _all_ procurements by Federal agencies, does not prohibit OFPP from directing such action in a limited category of procurements where it can be shown to contribute to the achievement of sound public policy objectives.

Under existing procurement statutes, when a comparative cost analysis covering an "umbrella" work statement is conducted under formal advertising procurement procedures, a subcontracting plan cannot be considered in selecting the best bid for comparison with Government cost. In those cases, adequate small business participation could be assured by including in the Invitation for Bid (IFB) a requirement that a specific percentage of the effort would be subcontracted to small and small disadvantaged business firms.

It seems clear that, with effective implementation of OMB Circular A-76 by all executive agencies, a significant portion of the $20 billion in Government commercial activity operations would be subjected to cost comparison with the private sector, and approximately one-third of that would be available as potential prime contracts for small business. The remaining activities could be packaged into larger studies, when reasonable and consistent with military readiness and other operational considerations. DOD statistics indicate that large studies are more than twice as likely to result in a contract award as the smaller studies, which frequently show Government performance to be less costly. The numbers show that the provisions on subcontracting under "umbrella" contracts could produce more actual business for small firms than the prime contract studies.

While large firms which generally bid on "umbrella" contracts would prefer not to be encumbered by specific requirements for subcontracting, they have endorsed the proposed compromise as an effort to resolve the controversy. While small business organizations generally find the provisions favorable, they are very skeptical of the effectiveness with which they would be implemented.

While there is no guaranteed method of achieving implementation of any procedure through the decentralized Government management system, the Alliance feels that the procurement system constitutes the most disciplined procedure available. Incorporation of the proposed conditions for use of "umbrella" contracts under OMB Circular A-76 studies into the pertinent procurement regulations, and ensuring their inclusion in solicitations and any resultant contracts, would establish a contractual obligation for the prime contractor. To support this enforcement procedure, the Procurement Executive for each agency, designated in accordance with Executive Order 12352, could be made responsible for compliance with these requirements.

PRIVATE SECTOR FIREFIGHTING

An area about which we have great concern is firefighting by the private sector. Contrary to popular belief, there are many companies performing firefighting services for the government at the municipal, state and federal level. Some firefighting companies and some contracts have been in existence over 30 years. The bulk of the companies performing firefighting services exclusively are small businesses. The record of these private sector firefighters has been outstanding with respect to fire losses and lack of work stoppages. Many former Atomic Energy Commission facilities have had the same private sector firefighting service protecting sensitive and uniquely dangerous materials since the 1950's.

We urge you to insure that there be no ban on this segment of our society, private sector firefighters, working for the government. As you can well imagine, most of their clients are the government.

There has been legislation introduced to preclude firefighting services from federal contracts. It is wrong to arbitrarily deny this group, the private sector firefighters, the chance to compete for work in their profession.

We are not saying that all firefighting must be done by the private sector. We do say - do not permit anyone to enact legislation which will arbitrarily prohibit many small business firefighting companies and other firefighters in the private sector from continuing in their profession.

CONCLUSION

The primary objective and concern of the Business Alliance is to promote effective implementation of the Government's general policy of reliance on the private sector for goods and services. We feel very strongly that compliance with this policy will promote economy and efficiency in Government, reduce the budget deficit, and stimulate the private economy. We pledge to work actively to overcome any roadblocks to full implementation, including disagreements on use of "umbrella" contracts, and feel that this issue can be resolved within Industry to an extent that will facilitate sincere implementation efforts by all agencies.

The support of the Senate Small Business Committee is urgently needed to avoid any further legislative roadblocks, such as current restrictions on contracting for fire protection and security services in DOD, and custodial and security services in the General Services Administration. It has been clearly demonstrated that these functions can be performed quite satisfactorily by contract, at considerably less cost than by Government employees, and provide extensive business opportunities for small firms. We earnestly solicit your support for this policy.

This concludes my prepared statement and we will be pleased to respond to any questions that you have.

ATTACHMENT

AEROSPACE INDUSTRIES ASSOCIATION
* AMERICAN CONSULTING ENGINEERS COUNCIL
AMERICAN DEFENSE PREPAREDNESS ASSOCIATION
* AMERICAN ELECTRONICS ASSOCIATION
ASSOCIATED GENERAL CONTRACTORS OF AMERICA
* ASSOCIATION OF DATA PROCESSING SERVICE ORGANIZATIONS
* BUILDING SERVICE CONTRACTORS ASSOCIATION INTERNATIONAL
* CONFERENCE OF AMERICAN SMALL BUSINESS ORGANIZATIONS
COUNCIL OF NATIONAL SECURITY COMPANIES, INC.
ELECTRONIC INDUSTRIES ASSOCIATION
HELICOPTER ASSOCIATION OF AMERICA
INFORMATION INDUSTRY ASSOCIATION
* LEGISLATIVE COUNCIL FOR PHOTOGRAMMETRY
MOTOR VEHICLE MANUFACTURERS ASSOCIATION OF THE U.S., INC.
* NATIONAL ASSOCIATION OF SERVICE INDUSTRIES
* NATIONAL AUDIO-VISUAL ASSOCIATION, INC.
NATIONAL COUNCIL OF TECHNICAL SERVICE INDUSTRIES
NATIONAL SECURITY INDUSTRIAL ASSOCIATION
* NATIONAL SMALL BUSINESS ASSOCIATION/
  NATIONAL SMALL BUSINESS LEGISLATIVE COUNCIL
NATIONAL TOOL & DIE ASSOCIATION
* NATIONAL UTILITY CONTRACTORS ASSOCIATION
* PRINTING INDUSTRIES OF AMERICA, INC.
* PRIVATE SECTOR FIRE ASSOCIATION
* PROFESSIONAL SERVICES COUNCIL
* TEXTILE RENTAL SERVICES ASSOCIATION OF AMERICA

* exclusively or predominantly small business interests

Senator RUDMAN. I have just one other question, and then I will ask Senator Gorton if he has any.

When this pot was already boiling we had this ad that was run by Boeing Services down in Cocca Beach. That is not very helpful, is it?

Mr. RUSSELL. Actually, I think it is, sir. I think it is extremely helpful because it illustrates a very good point.

Senator RUDMAN. To whom?

Mr. RUSSELL. Well, I think it illustrates this very good point. For one thing, this was not an A-76 cost study; this was a consolidation of existing NASA contracts at that location. However, NASA has for some time used a procedure that has been proposed in the revision of Circular A-76; that is, requiring advance submission of small business subcontracting plans and giving points toward source selection for the small and minority business subcontracting plans that are submitted. This case demonstrates how effective that approach can be.

It is interesting to note that Boeing, even though they had the advantage of being the incumbent on the major portion of work being studied in that procurement, was not the successful bidder. The successful bidder was one who did submit a comprehensive subcontracting plan, calling for extensive small and minority business participation in his proposed performance.

I think it just indicates very clearly that this can be used as an effective device to insure small and minority business participation in a large contract covering a number of functions at a single installation.

Senator RUDMAN. It was EG&G who received that contract?

Mr. RUSSELL. That is correct.

Senator RUDMAN. Senator Gorton?

Senator GORTON. Query, Mr. Russell: The proposed form of revisions for A-76, is it your view that the net result of these revisions will be a greater number of contracting out—that is to say, more contracts to the private sector?

Mr. RUSSELL. Yes, sir, definitely. My personal motivation, if I can move aside from my role here as chairman of the Steering Committee for the Business Alliance of Government Competition, is one of dedication for the last 20 years to seeing greater Government reliance on the private sector and more of this extensive commercial activity moving out of Government into the private sector. I feel that this objective would be substantially advanced by some of the proposed changes that we have here.

As I think Mr. Holland mentioned earlier during OMB's testimony, DOD's experience shows that when you look at these large packages, when that is an appropriate way to put them together, 81 percent of the cost studies have resulted in contract awards. When they study small individual packages, approximately 35 percent result in a contract award.

Therefore, if we look at it from the standpoint of getting the maximum amount of commercial activity out of Government into the private sector, that can be accomplished through the use of large packages.

If you also look historically at the umbrella contracts that have been discussed earlier, approximately 28 percent of the contract effort under those large contracts, without the guidance of the provisions that they are proposing to place in the OMB circular now, has been subcontracted to small and small disadvantaged business.

It is my personal opinion that if we can implement the proposed changes in the OMB circular, we will have a reasonable portion of work available for prime contracts for small business, a major portion of the $20 billion currently being done in-house converted to private sector performance, either under a small business prime contract or under an umbrella contract with significant subcontracting to small business. I think this will result in an increased business flow to small and small disadvantaged business, increased business flow to large business, a reduction in the cost of operating the Government, and a reduction in the budget deficit. All of this can be accomplished without adversely affecting the level of performance, the readiness of the military forces, or cutting any essential program.

Senator GORTON. In that regard, how inhibiting to this process is the kind of legislative activity represented by the firefighting rule of a couple years ago?

Mr. RUSSELL. Extremely, sir. One point that I did not discuss from my written statement, which is submitted for the record, is our very deep concern over the current restriction on contracting out fire protection and security services in the Department of Defense, which runs to the end of this fiscal year; the current restriction on contracting out for custodial and guard services in the General Services Administration, which run until the end of this year; and a bill that was recently introduced in the House that would extend the restriction on contracting fire protection and security services and make it a permanent prohibition.

We find no basis in the many years of experience the Government agencies have in successfully contracting for fire protection and security services in justify a conclusion that they are less reliable or less dependable than the same activities performed by Government employees.

In fact, we have today in this country a rather active but fledgling private fire protection service industry, including the company that many of you might have heard of, Rural Metro, which provides all fire protection service for Scottsdale, Ari. Rural Metro has demonstrated that they can provide quality fire protection services at considerably less cost than Government activities.

We feel that any attempt to arbitrarily exclude these companies from the opportunity to compete for fire protection business, their only line of work, with the Federal Government is unfair and discriminatory against this segment of industry. The fire protection and security service industries are predominantly small firms that are seeking to do business with their Government, and feel that they can do it more economically than the Government when given an opportunity to compete.

It is extremely unfortunate that the Congress took the action it did last year placing temporary restrictions on contracting for these activities. We sincerely hope that this committee and the Congress will be more openminded in looking at the issues this year, viewing them from the standpoint of what is best for the

American taxpayer, the public in general, and this segment of the business community.

Senator GORTON. Thank you.

Senator RUDMAN. I have just one final question.

Mr. Rennie testified, I believe, that he would support a 30-to 50-percent range of participation of small business contracts under these umbrella contracts to try to hone in a bit on the problem that has caused the delay and given other people a chance to take advantage of that problem.

Do you support that general number? Do you think that is a good number? Do you think that ought to be in regulation? How do you feel about it?

Mr. RUSSELL. We have supported the general approach in the proposed revision of circular A-76. I would like to elaborate on that position.

As I have said previously, we support setting aside approximately one-third of the activities that are to be studied under the policy in small packages as prime contract opportunities for small business.

When other activities are grouped together in large umbrella-type contracts, there should be provisions to insure small business subcontracting opportunities as Mr. Sowle pointed out this morning. When proposals are solicited in a negotiated procurement subcontracting incentives can be provided by, the technique that I described that had occurred at the NASA Kennedy Space Center. This approach assures that the competitors for the prime contract are going to explore maximum feasible subcontracting to small and small disadvantaged businesses. Award of evaluation points in the source selection process gives them a tremendous incentive to develop an optimum subcontracting plan. We do not feel that any additional requirements are needed in that case.

However, in a formally advertised procurement no factor can be considered in evaluating the different bids other than cost between the responsive and responsible bidder. Since agencies would be unable to consider relative subcontracting plans in the selection process, we have agreed that there should be a minimum specified percentage of subcontracting to small business as an integral part of the IFB, the solicitation, and the contract. The figure that has been proposed for inclusion in OMB circular A-76 is one that would normally be 50 percent.

We have supported that position, recognizing, of course, that there are going to be some specific circumstances, in an extremely isolated area or in some very complex type of work, where it might not be feasible to have 50 percent subcontracting to small business, but we are agreeable that normally the 50 percent figure is reasonable.

Senator RUDMAN. Mr. Russell, thank you very much.

Mr. Altheimer, we appreciate your being here this morning.

The committee will stand in recess.

[Whereupon, at 11:03 a.m., the committee recessed, to reconvene at the call of the Chair.]

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